



General Assembly

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25 February 2015

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Human Rights Council

Twenty-eighth session

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Iranian Elite Research Center, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-03527 (E)



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Children's Rights

All religions have advised people to peace and reconciliation with each other. Because human nature is incompatible with violence and extremism; No one has pleasant feeling in violence conditions and endure these conditions, even for the heroes of history it has been difficult and unpleasant. In violence conditions, one of the vulnerable segments of society who needs more care to protect against violence and extremism are children who are exposed to greater risks.

Convention on the Rights of the Child is a basis for the determination of the rights of children and protection of them. However, in each of these countries, there are children who experience violence. Effects and reflections of such violence can continue in all stages of life of these children and affect their health, growth and behavior.

According to the Article 38 of the Convention on the Rights of the Child that states:

1-Member States undertake to in times of armed conflict relates to children, Respect the applicable rules of international humanitarian law and ensure respect for the rules.

2- Member States will take all possible actions to ensure persons who have not attained the age of 15 are not directly participating in hostilities.

3- Member States will avoid the reception of persons who have not attained the age of 15 in their armed forces. At the reception of persons between 15 and 18 years, member States shall endeavor to give priority to those who are older.

4- Member States under obligations under international humanitarian law relating to the protection of civilians in armed conflict, to take all possible actions to ensure Protection and care of children who are vulnerable due to armed conflict.

It is unfortunate that in the 21st century, millions of children in various forms of violence in the world expose to violence. The most obvious manifestation of violence is war and bloodshed and the most innocent Victims of war, are children. War, has a negative impact on children and also destructs Infrastructure to which children are raised.

According to a UNICEF report, during last year nearly 15 million children have been displaced in the wars of the Central African Republic, Iraq, South Sudan, Palestine, Syria and Ukraine and 230 million children around the world live in countries that are at war and violence. The wars in Iraq and Syria after the emergence of terrorist groups; Daesh, led to the involvement of over three million, seven hundred thousand children in Syria and two million seven hundred thousand Iraqi children in violence and extremism.

According to this report, also the 50-days Israel attack on Gaza in last summer made 54 thousands children homeless and 538 children was killed.

Nearly 10 thousand children were employed by armed groups in Central Africa and more than 430 children were killed by armed groups that when compared with last year has tripled. In Southern Sudan, 235 million children under age 5 suffer from malnutrition and despite the fact that 750 thousand children were left homeless.

Children in Syria are widely exposed to murder, kidnapping, detention and torture. About three million children for various reasons, including the destruction of schools, flee from war or support their families have been forced to quit school.

According to the UN, 50% to 60% of Syrians who have fled to neighboring countries are deprived of education and schools.

Earlier, the United Nations published a report on the destruction of schools in Syria and the destruction of more than three thousand schools in the country was announced. Many of these children are forced to do hard work to pay for the rest of their family life.

Syrian refugee girls also because of the difficult economic conditions of families in refugee camp are forced to marry with Arab sheiks or men at least 10 years elder.

The Iraq war led to the forced displacement of people and communities affected by conflict and violence, caused that the situation of civilians, especially children, places in critical conditions.

According to available statistics and findings, a large number of children have been killed or injured, or forced to relocate. So now in Iraq, many children live apart from their families.

I like to suggest the following recommendations according to my study and practice of protecting children's rights in armed conflict:

1-Identification of situation through monitoring, reporting and regular assessments This report should include child abuse and molestation to the recruitment of children by armed groups and armies, killing and maiming of children, attacks on schools and hospitals, Denial of humanitarian assistance, sexual and gender-based violence against children, child abduction and actions.

2- Assessment and advice for action against countries and based on reports provided to countries that recruit or use children in armed conflicts.

3- Prohibit all forms of violence against children in all states and countries and evidence based policy enforcement and education programs to prevent violence against children.

4-Encourage and promote non-violent values and awareness rising.

5- Developing and designing the implementation of a systematic effort to gather information and research. I suggest that governments promote systems of collecting data in order to improve their level of identifying the most vulnerable subgroups.

6-give information to those involved in all levels of policy and planning and led progress towards the goal of preventing violence against children.

7- Countries use national indicators based on internationally agreed standards and ensure data collected and analyzed and published over the time.

8-Insert a national research agenda on violence against children in all work situations to gather knowledge and develop a higher level of programs is necessary.



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**Promotion and protection of all human rights, civil,
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Written statement* submitted by the Liberation, a non- governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-03528



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Human Rights defenders

The Saharawi political prisoners, who are still imprisoned in Sale City local Prison since 2010-2011, are serving very long and hard sentences ranging between 20 years imprisonment to life sentence. This unbearable harsh verdict stems from the fact that they have been all human rights activists who participated in the biggest peaceful protest ever that was held in the outskirts of Laâyoun, known as the Gdaim Izik camp in October 2010.

In this infamous event, more than 20,000 Saharawi people decided to leave the city to the Camp instaled in Agdeim Izik, in sign of protest over the painful and intolerable socio-economic situation. For a month of protest, this camp was brutally dismantled causing a great deal of casualties among civilians. The groups of 21 Saharawi political prisoners are civilians brought before a military court. Right now, they just finished serving five years in prison, and still have many years to come to serve for some of them.

Despite the reporting and the recognition by the international community of the illegality of this trial which was merely based on confessions extracted under extreme torture, far from any credible evidence. These obvious inhuman torture cases were reported to the Committee against Torture. They include: techniques of suffocation, electrocution, rape with objects like broken bottles and chair legs, cigarette burns, forced extension of the male members, intake of urine and feces, burns and poisoning with chemical products and pulling out nails....etc.

These cases of torture resulted in permanent scars, exhibited by the prisoners in the court and witnessed by more than 40 international observers. Despite the calls of the prisoners to the judge to investigate their claims and suffering, the latter denied any medical expertise. The Moroccan Parliament itself passed a law in August 2014 outlawing this type of trial, which meant that either political prisoners would be released or moved to a new trial in a civil court. Yet, this was not done and the process in the Parliament is still waiting for ratification from the higher chamber.

The situation in the prisons where Saharawi political prisoners are held, have not improved. The degrading and ill treatments continue on a daily basis against them. Medical assistance is denied to most of them and when they receive some kind of medical attention, it remains inadequate, insufficient, and in some cases, the medicines that they receive are completely unrelated to the illnesses they have.

The international community has to intervene in order to put an end to the violations committed by Moroccan judiciary in implementing the criminal law, and which is applicable to the people of Western Sahara.

The international instruments signed and ratified by Morocco, such as the International Convention on the Elimination of All Forms of Racial Discrimination (1966), the international Agreements on Civil and Political Rights, the international Agreement on Economic, Social and Cultural rights (1966), the Agreement for the Prevention and Sanction of the Crime of Genocide and Crime of Tortures, (ratified by Morocco in 1950) are totally ignored and violated by Morocco. The well known Saharawi political prisoners of the Gdaim Izik have to be freed at once. Their trial was null and void under international law.

As many other cases, this group have been subjected to all forms of psychological and physical abuses. Furthermore, Liberation requests the UN Working group for arbitrary detention to visit all the detention centres in Morocco and other countries where there are the detainees.

We also call to the Human Rights Council to call for the extension of the Mandate of the MINURSO to include the monitoring and the protection of human rights in Western Sahara which must not be a lawless area. This situation exists and persists because of the lack of the political will and the lack of compliance with the international law, particularly the relevant UN resolutions that recognize the right of self-determination of the Saharawi People and call for its implementation.



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**Promotion and protection of all human rights, civil,
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Written statement^{*} submitted by the British Humanist Association, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

^{*} This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Blasphemy laws, vigilantism and a lack of due process

Blasphemy laws¹ stand in opposition to international human rights law. This fact is non-negotiable. Not only is the concept of blasphemy fundamentally inconsistent with the principles outlined in Articles 18 and 19 of the International Covenant on Civil and Political Rights, General Comment 34 explicitly affirms that, “prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant”². Blasphemy laws undermine the rights to freedom of belief and freedom of expression and are discriminatory by nature, insofar as they afford different levels of protection to different religions³.

This acknowledged inconsistency of blasphemy laws with international standards is but one of many problems related to their continued presence on penal codes, however. Firstly, the prohibition of so-called blasphemy has become “an increasingly common way for governments to silence debate; not only debate about religion *per se* but to silence dissenting views on politics, calls for individual freedoms, or to provoke hatred against minorities”⁴. Secondly, such laws risk legitimising religious intolerance, creating a permissive environment for vigilante justice and inter-communal violence. Thirdly, the concomitant social stigma that comes with blasphemy laws has been shown to inhibit the individual’s right to a fair trial and due process of law. The recourse to justice for those accused of blasphemy is at best, skewed; at worst, non-existent.

Blasphemy and Vigilantism

The mere existence of blasphemy laws in a country can be seen by those engaging in vigilante ‘justice’ to legitimise their actions; the conflation of religious sensitivities with legal provisions, the punishments for which are often state-sanctioned death or extreme violence, fosters an environment in which extra-judicial aggression can, and does, flourish. The ambiguous wording of blasphemy laws – which include ‘desecration’, creating ‘confusion among Muslims’⁵, ‘[prejudicing] the Islamic faith’⁶ or simply ‘calling into question the fundamentals of the [...] religion on which [the] country is based’⁷ – is encapsulated by their reliance upon the subjective and mutable notion of ‘offense’. The consequent interpretations and applications of the law are not only absurd in their reliance on assuming something like a correct, inviolable standard of *religion* which is being blasphemed against, but lead to stark inconsistencies in application, both within and outside the courtroom.

Vigilantism against individuals is widespread, and such acts are typically committed with impunity. State passivity in the face of extrajudicial violence amounts to tacit sanction of criminal activity and further perpetuates the notion that some people, by virtue of their affiliation, or lack thereof, to a different religion or belief system, are a just target for abuse. Furthermore, government officials and prominent religious leaders have been known to stoke the flames of popular outrage through public declarations calling for the immediate deaths of blasphemers⁸, the publication of the accuseds’ addresses⁹ or specific hate campaigns against people accused of blasphemy¹⁰.

¹ The International Humanist and Ethical Union’s 2014 *Freedom of Thought Report* found that 55 countries had criminal laws restricting blasphemy. See: <http://freethoughtreport.com>

² CCPR/C/GC/34.48

³ http://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf

⁴ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/041/49/PDF/G1404149.pdf?OpenElement>

⁵ Malaysian blasphemy law, *Silenced: How Apostasy and Blasphemy Codes are Choking Freedom Worldwide*, Paul Marshall and Nina Shea, OUP (2011), p. 313

⁶ Yemeni blasphemy law. Ibid, p. 131

⁷ Article 1 of Saudi Arabia’s anti-terrorism law, which defines atheism as terrorism. <http://end-blasphemy-laws.org/countries/middle-east-and-north-africa/saudi-arabia/>

⁸ <http://www.hudson.org/research/10755-destroying-pakistan>

⁹ <http://www.ahmadiyya.ca/press/AnnualNewsReport2011.pdf>, <http://www.torontosun.com/2014/05/16/teen-kills-man-accused-of-blasphemy-in-pakistan-police-station>

¹⁰ See, for example, entries on “Mauritania” or “Pakistan” in the *Freedom of Thought Report 2014*, at <http://freethoughtreport.com>

Some examples:

- In Pakistan, whilst there have been no official executions for blasphemy, at least 60 individuals have been murdered outside the Pakistani justice system in related cases¹¹ since 1990: the real statistic may be much higher. Indeed, the reports surrounding blasphemy and extrajudicial violence cite Pakistan more frequently than any other country. In November 2014, it was reported that a police officer used an axe to kill a man accused of blasphemy¹². In another incident, a man who tripped onto a stove and accidentally singed himself and a Qur'an, was apprehended by vigilantes and burned to death for his transgression¹³.
- In Bangladesh, blogger Ahmed Haider was murdered in February 2014 by a mob amidst chants of "God is great! Hang the atheist bloggers!"¹⁴.

Blasphemy and Inter-communal Violence

Blasphemy laws heighten religious animus: legal differentiation between citizens on the basis of their faith necessarily precludes the equal enjoyment of human rights, thus standing counter to the very principle of the Human Rights Council. The very notion of blasphemy creates a permissive environment for the persecution of minority groups, whether this is manifested in their de facto silencing, or in inter-communal violence. Concepts of 'riddah' (apostasy) or being 'kafir' (infidels) are invoked to justify attacks on minority belief groups. An individual blasphemy accusation can often serve, therefore, as a match to a tinderbox, catalysing latent intolerance into an active riot.

Some examples:

- Alexandria, Egypt, 2005: Following a newspaper report that a play performed in a local Church had "insulted Islam", a 5,000-strong mob attacked eight churches, killing four and injuring ninety¹⁵.
- Gorja City, Pakistan, 2009: Following the alleged desecration of the Quran at a Christian wedding, Muslim demonstrators set fire to houses within the Christian enclave, causing the death of six people¹⁶.
- Prosecutions for blasphemy under the penal code are virtually non-existent in Nigeria, but there have nevertheless been numerous incidents of violence stemming from unsubstantiated accusations of blasphemy, particularly against the Christian community¹⁷.

Blasphemy and a lack of due process

Blasphemy laws and the concomitant fear of reprisals pervade judicial as well as social spheres, often inhibiting the right to due process and a fair trial as enshrined in Article 14 of the ICCPR.

Firstly, the social stigma and public outrage caused by blasphemy accusations can result in disproportionate pressure on the judiciary to ensure a conviction¹⁸. Irregularities and inconsistencies are commonplace in blasphemy trials: there are many reports in which the investigative process has lacked basic standards and the evidence provided is objectively

¹¹ <http://crss.pk/wp-content/uploads/2010/07/Report-on-Blasphemy-Laws-.pdf>

¹² <https://au.news.yahoo.com/world/a/25451160/policeman-kills-blasphemy-suspect-with-axe/>

¹³ Silenced, Marshall and Shea (2011) p. 15

¹⁴ <http://www.bangladeshchronicle.net/index.php/2013/04/bangladesh-protesters-demand-blasphemy-law/>

¹⁵ Silenced, Marshall and Shea (2011), p. 8

¹⁶ <http://edition.cnn.com/2009/WORLD/asiapcf/08/01/pakistan.sectarian.violence/>

¹⁷ E.g., <http://allafrica.com/stories/201404010386.html> (2014); <http://www.irinnews.org/report/76570/nigeria-deadly-sectarian-riot-over-alleged-blasphemy> (2008)

¹⁸ <http://religion-compass.com/2011/01/05/blasphemy-laws-in-pakistan-2/>

insufficient for a conviction¹⁹. Furthermore, judges in Pakistan have reportedly been attacked for failing to ensure a conviction²⁰.

Secondly, lawyers can be reluctant to take defence cases due to the violent repercussions that many have faced. In Pakistan, renowned lawyer Rashid Rehman said that defending someone accused of blasphemy was akin to "walking in to the jaws of death"²¹. Rehman has since been murdered for doing just that²².

These inevitably ubiquitous fears of violence and persecution that exist in societies subjected to blasphemy laws, work to hinder any rational discussion of blasphemy laws and their modern usage, closing down dialogue not only regarding religious freedom but also legal practice.

Some examples:

- In 2011, in Pakistan, the security guard who had murdered the former Governor of Punjab, Salman Taseer, for his opposition to Pakistan's blasphemy laws was welcomed to the court by crowds scattering him with petals.
- Again in Pakistan, in two politicians were murdered last year for having discussed reforming the blasphemy laws²³.

Summary and Recommendations

Blasphemy laws work in opposition to all international standards and understandings of basic human rights and dignity. They are intrinsically bad laws; subjective and inconsistent in nature, with no "right way" to use them. Not only that, but they help legitimize vigilantism, mob violence, and persecution of minorities, inhibit due process and the enactment of justice, and protect religious beliefs and practices, institutions and leaders, from legitimate and often necessary criticism. It also should be noted that there is a plethora of existing international law, which addresses discrimination, personal defamation, and incitement in a more carefully focused way than blasphemy laws ever could, without threatening basic right of every individual to freedom of expression and belief.

Accordingly, we urge the Council to:

- Oversee the implementation of the Rabat Plan of Action, which, amongst many things, recommends the repeal of blasphemy laws worldwide.
- Ensure signatories of the ICCPR fulfil their obligations with regard to article 19 of that convention. Where states are not signatories or where they have reservations to articles 18 or 19, they should be encouraged by all possible means to sign the convention and withdraw reservations.
- Pressure states to publicly condemn, and more urgently, investigate harassment against those exercising their free expression. States should take active steps to prevent vigilante violence against those seeking to question or criticise religious or non-religious belief, practices or authorities. International trial observation is a mechanism that could be considered in those states where fair hearings have been found difficult to guarantee.
- Ensure that governments consistently enact freedom of speech laws in their countries, rather than selectively favouring speech the majority favours and prosecuting individuals for speech disapproved of by the majority.

¹⁹ In Pakistan, 'the law does not require evidence to be presented in court and there are no penalties for false allegations' <http://www.reuters.com/article/2014/05/08/us-pakistan-blasphemy-idUSBREA4709N20140508>

²⁰ Ibid.

²¹ <http://www.nytimes.com/2014/05/08/world/asia/pakistani-activist-shot-dead-aided-blasphemy-suspects.html>

²² <http://www.reuters.com/article/2014/05/08/us-pakistan-blasphemy-idUSBREA4709N20140508>

²³ <http://www.reuters.com/article/2014/05/08/us-pakistan-blasphemy-idUSBREA4709N20140508>



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Agenda item 4

Human Rights situations that require the Council's attention

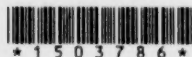
Joint written statement^{*} submitted by the Nonviolent Radical Party, Transnational and Transparty, a non-governmental organization in general consultative status; Women's Human Rights International Association, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 January 2015]

^{*} This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The massacre of political prisoners in 1988 in the Islamic Republic of Iran

The largest wave of executions of political prisoners took place in Iranian prisons in 1988. After the Iran-Iraq ceasefire, Ayatollah Khomeini issued a fatwa (decree) ordering the execution of all prisoners that were affiliated with the People's Mojahedin Organization of Iran (PMOI/MeK). The fatwa states: *"As the treacherous Monafeqin (MeK) do not believe in Islam and what they say is out of deception and hypocrisy, and as their leaders have admitted that they have become renegades, and as they are waging war on God, ... it is decreed that those who are in prisons throughout the country and remain steadfast in their support for the Monafeqin (MeK), are waging war on God and are condemned to execution"*. Following this fatwa, a "Death Commission" was formed in Tehran. The task of implementing the decree in Tehran was entrusted to a religious judge (Hojjatol-Islam Nayyeri), Tehran's revolutionary prosecutor (Mr. Eshraqi), and a representative of the Intelligence Ministry. The orders of this trio had to be obeyed in prisons in Iran and people were told not to hesitate, nor show any doubt or be concerned with details. They were told that they must try to be *"most ferocious against infidels"*. The religious judges who had doubts about the fatwa could raise their questions with the Head of Judiciary, who at the time was Ayatollah Mousavi Ardebili. He in turn could pose questions to Ayatollah Khomeini, which were conveyed to Khomeini by his son. The answers to all questions were: *"In all the above cases, if the person at any stage or at any time maintains his [or her] support for the Monafeqin (MeK), the sentence is execution. Annihilate the enemies of Islam immediately. As regards the cases, use whichever criterion that speeds up the implementation of the verdict."*

The mass executions of political prisoners in Iran began in summer of 1981. Ayatollah Khomeini had made it clear that *"Mojahedin are apostates and are worse than infidels. They have no right to property, nor right to live."* Later, Khomeini's fatwa, was put in legal form as the charge *"Mohareb – being at war with God"*. Based on this fatwa, thousands of prisoners were executed based on sentences from religious courts in early 1980s. After the first wave of executions, prisons across Iran were populated by tens of thousands of political prisoners who had not been sentenced to death by the courts yet. These were the prisoners who were massacred in 1988. Most of these prisoners had been sentenced by the revolutionary courts to several prison terms and were serving their sentences. Some had already completed their sentences, but had not been released or had been groundlessly imprisoned. Others had been released but were re-arrested and executed during the massacre of political prisoners.

According to Ayatollah Montazeri, political prisoners associated with the MeK were asked only one question: to which movement do you belong to? Whoever mentioned the name of the MeK were to be summarily executed. Not a single political prisoner was spared from the implementation of the fatwa in some prison facilities across the country (such as Dizel Abad Prison in Kermanshah, Vakil Abad Prison in the city of Mashad, Gachsaran Prison, Khoramabad Prison, Kerman Prison, Masjed Soleyman Prison). In one of the wards for women in Ghohardasht Prison in the city of Karaj, only 4 out of 200 prisoners survived. It was not only the MeK-associated prisoners, but also many of those affiliated with other political groups were put before the Death Commission and executed.

These executions were carried in absolute secrecy, therefore many details about the circumstances in which these executions took place remain unrevealed. For a while, the people of Iran and international organizations did not know what had happened. Amnesty International that had released the most accurate reports on the massacre only managed to obtain a list of 2000 victims after two years while the scale of massacre was much wider.

Death Commission or "Amnesty Delegation"

To carry out the massacre, a 4-member committee was formed in Tehran including: Hossein Ali Nayyeri as chief judge and head of the commission; Mostafa Pour-Mohammadi, representing the Intelligence Ministry; Morteza Eshraqi, the Tehran prosecutor; and Ebrahim Raisee, the deputy chief prosecutor of Tehran. The commission's task was to implement Khomeini's fatwa and execute all those associated to the MeK. Similar commissions were set up in other cities. They officially called themselves "Amnesty Delegations", but the detainees referred to them as "Death Commissions". Pour-Mohammadi was later appointed as Interior Minister when Ahmadi-Nejad was president. After his

appointment, the Human Rights Watch released a statement and referred to Pour-Muhammadi and one other official, as the "Death Ministers" that were engaged in the executions in 1988.

How the "Death Commission" operated

Part of an Amnesty International report on human rights violations in Iran between 1987 and 1990 is dedicated to the "Massacre of 1988". The report states:

"The first question asked by the commission was: 'What is your political affiliation?' Those who answered 'Mojahedin' were sent to their deaths. The 'correct' answer was 'monafeqin' (hypocrites). Those prisoners who survived this first phase of interrogation were then subjected to a second series of questions. These included questions such as:

- Are you willing to give an interview on television to condemn and expose the monafeqin?
- Are you willing to fight with the forces of the Islamic Republic against the monafeqin?
- Are you willing to put a noose around the neck of an active member of the monafeqin?
- Are you willing to clear the minefields for the army of the Islamic Republic?"

Mass graves

The high number of executions in Tehran and other cities resulted in mass graves. In some cases, more than 100 bodies were buried piled on top of each other. These cases have never been investigated and Iran's rulers have tried to wipe out all traces of the graves. Once at the end of 2008 and early 2009, bulldozers were hired to flatten the site of mass graves in Khavaran cemetery. In 20 January 2009, Amnesty International denounced the government's plans of destroying the site and insisted the graveyard be kept intact for investigations.

Number of executions

In a letter to Khomeini, 31 July 1988, Ayatollah Montazeri protested against the mass executions and unveiled "the death of several thousand people in a few days." In another letter, Ayatollah Montazeri refers to the killings as a "massacre". The UN Commission on Human Rights' Rapporteur on arbitrary executions stated in his 1989 report, "In the days of 14, 15 and 16th of August 1988, 860 bodies were transferred from Evin Prison to the Behesht-e Zahra Cemetery. This is despite the fact that the majority of the dead were buried in groups at the Khavaran Cemetery and not the Behasht-e Zahra Cemetery."

Reza Malek, a senior government official who was a whistle blower, was arrested and recently released after spending 12 years in prison, has secretly sent a video clip to Ban Ki-moon from within prison revealing that 33,700 people were executed in a matter of days.

On February 4, 2001, an article in the British newspaper The Sunday Telegraph stated, "*Khomeini's fatwa cost 30,000 lives.*" A witness to the massacres, interviewed in 2004 under the pseudonym "Payam" by the Canadian newspaper The Toronto Star, also put the number of executions close to 30,000.

The head of the Iran and Afghanistan desk of Reporters Without Borders confirmed the same figure in the French newspaper LaCrois in 2010.

In a recent article about Rwanda, Muhammad Nouri-Zad, a close associate to Ayatollah Ali Khamenei before the 2009 suppression of the uprising in Tehran, writes "Here, in a matter of 2 or 3 months, 33,000 men, women, young and old were imprisoned, tortured and executed. Their bodies were taken to Khavaran Cemetery and barren lands by trucks and buried in mass graves, happy of what they had done..."

Legal definition of the crime

On November 2, 2007, on the 20th anniversary of this massacre, Amnesty International released a statement and referred to this day as a "massacre of the prisoners" and continued "Amnesty International believes this has been a crime against humanity." In the 2005 December 25 report of Human Rights Watch, these killings are also referred to as "crimes against humanity."

Judge Geoffrey Robertson's investigation

The most complete study ever done on the 1988 massacre was performed by the Australian jurist, Judge Geoffrey Robertson, the President of the International Court of Sierra Leone. He produced a detailed report about the killings, which was published in 2010. Judge Robertson in his book entitled "Mullahs without mercy" offers a new theory in connection with the massacre of political prisoners. Without a doubt, he believes the killings are example of genocide and crimes against humanity. Judge Robertson blames the international community for a lack of firmness in the face of this crime, considered the largest massacre of political prisoners since World War II. He concludes that the international community's inaction and insensitivity to this crime, allowed the Iranian government to feel free to violate international law and to continue violating human rights. Silence allows the government in Tehran to export terrorism to other lands and engage in terrorist activities in other countries. It also allows the Iranian government to pursue its nuclear ambitions without restraint. He concludes:

"Comparisons are invidious, especially in levels of evil [...] In Iran the prison massacres, by virtue of their calculated cruelty designed by the political and judicial leaders of the state, are more reprehensible than their comparators, the Bataan march (whose 7000 starving Americans and Filipino prisoners were literally marched to their death) and the execution of similar numbers of Muslim men and boys at Srebrenica. Japanese General Homma, who ordered the Bataan march, was sentenced to death by the Manila War Crime Tribunal... whilst General Meladic is now on trial at The Hague and others of his staff at Srebrenica are serving forty-five years imprisonment. The two leaders who advised and implemented the 1988 massacres, Khamenei and Rafsanjani are respectively Supreme Leader and Expediency Council head, and the Death Committee judges remain in judicial place. They deserve to be put on trial at an international court, of the kind that can only be established by the Security Council." (Page 104)

What happened in Iranian prisons in 1988, remains as a deep scar in the body and soul of the Iranian people. The only way to soothe this wound would be a comprehensive investigation and identifying those who abused their power to execute thousands of their ideological opponents.

Although a number of investigations have been conducted to date by NGOs such as Amnesty International, Human Rights Watch, FIDH and others and dozens of books and reports been published, due to critical nature of the crimes committed, it is essential that this issue is taken up formally by the UN Security Council and the Special Rapporteur on Human Rights. This is of particular importance since the Iranian government has not heeded dozens of condemnations and recommendations by various UN bodies and has refused to allow the UN rapporteur to visit Iran and conduct a thorough investigation.



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Agenda item 3

**Promotion and protection of all human rights,
civil, political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Friends World Committee for Consultation, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-03530 (E)



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Children of Incarcerated Parents: Towards Better Investment in the Rights of the Child

Friends World Committee for Consultation (Quakers) would like to draw the Human Rights Council's attention to the particular situation of children of incarcerated parents in the context of the full day discussion "Towards better investment in the rights of the child". Investment in support for children to avoid separation through parental incarceration and to support children to maintain relationships with an incarcerated parent (where this is in the child's best interests) is an investment in children's mental and physical health and wellbeing and can contribute to educational attainment.¹

Avoiding Separation

The Committee on the Rights of the Child has, with increasing frequency, been making recommendations in its Concluding Observations that States parties to the Convention on the Rights of the Child should take the best interests of the child into account when sentencing their parent or guardian. In its most recent set of Concluding Observations the Committee stated:

"The Committee recommends that the best interests of the child are taken into account as a primary consideration when sentencing parents, avoiding, as far as possible, sentences for parents which lead to the separation from their children."²

The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) covered the protection of children of incarcerated parents in their first General Comment.³ Article 30 of the African Charter on the Rights and Welfare of the Child binds States parties to "provide special treatment to expectant mothers and to mothers of infants and young children who have been accused or found guilty of infringing the penal law".⁴ The General Comment states that this should be understood to include any primary carer and that implementation of this provision:

"requires States parties to review their sentencing procedure and reform it accordingly so that:

- (a) A sentencing court should find out whether a convicted person is a primary caregiver whenever there are indications that this might be so.
- (b) The court should also ascertain the effect on the children concerned of a custodial sentence if such a sentence is being considered.
- (c) If the appropriate sentence is clearly custodial and the convicted person is a primary caregiver, the court must apply its mind to whether it is necessary to take steps to ensure that the children will be adequately cared for while the caregiver is incarcerated.
- (d) If the appropriate sentence is clearly non-custodial, the court must determine the appropriate sentence, bearing in mind the best interests of the child.

¹ For more information on the impact of parental incarceration on children's wellbeing and human rights see: O. Robertson, *Collateral Convicts: Children of incarcerated parents. Recommendations and good practice from the UN Committee on the Rights of the Child Day of General Discussion 2011* (Quaker United Nations Office, 2012); Jennifer Rosenberg (Quaker United Nations Office, 2009) *Children Need Dads Too: Children with Fathers in Prison*; Oliver Robertson (Quaker United Nations Office, 2008) *Children Imprisoned by Circumstance*; Oliver Robertson (Quaker United Nations Office, 2007) *The Impact of Parental Imprisonment on Children*; Marlene Alejos (Quaker United Nations Office, 2005) *Babies and Small Children Residing in Prisons*

² Committee on the Rights of the Child, Concluding observations on the combined third to fifth periodic reports of Mauritius, CRC/C/MUS/CO/3-5 of 4 February 2015, para. 48

³ African Committee of Experts on the Rights and Welfare of the Child, General Comment on Article 30 of the African Charter on the Rights and Welfare of the Child, ACERWC/GC/01 (2013)

⁴ African Charter on the Rights and Welfare of the Child OAU Doc. CAB/LEG/24.9/49 (1990)

- (e) Finally, if there is a range of appropriate sentence, then the court must use the principle of the best interests of the child as an important guide in deciding which sentence to impose.”⁵

The ACERWC notes that this provision is not intended to mean that no primary carer can ever be given a custodial sentence and that therefore:

“States parties must ensure that judicial officers are equipped to be able to weigh the best interests of the child versus the gravity of the offence and public security when considering the incarceration of a mother/parent.”

Thus, to effectively consider the best interests of the child in sentencing decisions investment is needed in the judiciary’s understanding of the impact of separation through parental incarceration on children’s wellbeing, in general and in each specific case. Investment is also needed in non-custodial sentencing disposals to enable the prevention of unnecessary separation and the damage this does.

In light of this we draw the Human Rights Council’s attention the January 2015 decision of the Scottish Cabinet Secretary for Justice’s decision to abandon plans for a large women’s prison in favour of an approach based on more community sentencing and support services. The Scottish Government’s Commission on Women Offenders’ report, whose recommendations the Scottish Government are following, includes a recognition of the importance of parenting support services in enabling positive parent-child relationships.⁶ We warmly welcome the position taken by the Scottish Government and call on them to invest in and implement a programme of work that upholds the rights of children of incarcerated mothers as well as the rights of women in the criminal justice system.

Children Residing in Prisons

Where a custodial sentence is handed down to the primary or sole carer of a child the decision has to be taken as to whether that child will be separated from the parent or reside in prison with them. The Committee on the Rights of the Child in Concluding Observations in February 2015 stated that:

“It also recommends that the State party give due consideration to the child’s best interests when deciding whether the child should live with his or her incarcerated parent. In doing so, due consideration to the overall conditions of the prison context and the particular need for parent-child contact during early childhood should be taken into full account, with the option of judicial review.”⁷

Different approaches are taken in different countries with some States prohibiting children from residing with their parent (unless born in whilst the mother is in custody) and others allowing children to reside in prison until they are 7 years old (or even older in certain circumstances).⁸

If children are permitted to reside in prison investment is needed in facilities, education, health and support or welfare services that ensure that these children live in safety and are not discriminated against in their access to basic services compared to children in the general population.

The Committee on the Rights of the Child has recommended that a State party:

“Take effective and urgent measures to ensure adequate living conditions for children in prison with their mothers, including access to health and education services.”⁹

⁵ African Committee of Experts on the Rights and Welfare of the Child, General Comment on Article 30 of the African Charter on the Rights and Welfare of the Child, ACERWC/GC/01 (2013), para.36

⁶ Scottish Government (2012) *Commission on Women Offenders: Final Report*

⁷ Committee on the Rights of the Child, Concluding observations on the combined third to fifth periodic reports of Mauritius, CRC/C/MUS/CO/3-5 of 4 February 2015, para. 48

⁸ O. Robertson, *Collateral Convicts: Children of incarcerated parents, Recommendations and good practice from the UN Committee on the Rights of the Child Day of General Discussion 2011* (Quaker United Nations Office, 2012)

Maintaining a Relationship with an Incarcerated Parent

The COPING research project explored the impact of parental incarceration on their children in four countries. The results of the project showed that:

"Children with a parent/carer in prison were found to be at significantly greater risk of mental health problems than their peers in the general population."¹⁰

In overcoming these problems the COPING found that:

"Key factors relating to children's resilience included: children's innate qualities; family stability; and sustaining relationships with the imprisoned parent. The data confirmed that children's resilience is closely linked to open communications systems and that children need opportunities to discuss their experiences."¹¹

The final report notes "overall deficiencies in services, which must be a major concern given the mental issues raised" and identifies the "wide range of good practice examples by NGOs supporting children of prisoners and their families".¹² Investment is needed to scale up or replicate effective services like these which are limiting the harm done by parental imprisonment.

In regard to measures that can support children to maintain relationships with incarcerated parent the Committee on the Rights of the Child has covered a range of issues in its recent Concluding Observations:

"The Committee recommends that the State party take all necessary measures to ensure that children can maintain personal relations and direct contact with parents in prisons and reintroduce the systematic application of the principle of closeness [whereby prisoners are incarcerated in the nearest appropriate facility to their home]. The Committee also encourages the State party to continue increasing child-friendly visiting possibilities in prisons."¹³

"With reference to the Committee's recommendations during its day of general discussion in 2011 on the "Rights of Children of Incarcerated Parents", the Committee recommends that the State party collect data and undertake a study on the situation regarding the situation of children with parents in prison in the State party, with a view to ensuring personal relations between children and their parents, including regular visits, adequate services and appropriate support in line with article 9 of the Convention, and that the best interests of the child is a primary consideration in all decisions taken."¹⁴

"The Committee also recommends that the State party ensure that incarcerated parents are guaranteed systematic contact with their children and the Children Development Unit, including in the cases of adoption, and that children of

⁹ Committee on the Rights of the Child, Concluding observations on the combined third to fifth periodic reports of Uruguay, CRC/C/URY/CO/3-5 of 4 February 2015, para. 42(b)

¹⁰ A Jones, B Gallagher, M Manby, O Robertson, M Schützwohl, A Berman, A Hirschfield, L Ayre, M Urban, K Sharratt and K Christmann 'Children of Prisoners: Interventions and mitigations to strengthen mental health' (University of Huddersfield, 2013) <http://eprints.hud.ac.uk/18019/>

¹¹ A Jones, B Gallagher, M Manby, O Robertson, M Schützwohl, A Berman, A Hirschfield, L Ayre, M Urban, K Sharratt and K Christmann 'Children of Prisoners: Interventions and mitigations to strengthen mental health' (University of Huddersfield, 2013) <http://eprints.hud.ac.uk/18019/>

¹² A Jones, B Gallagher, M Manby, O Robertson, M Schützwohl, A Berman, A Hirschfield, L Ayre, M Urban, K Sharratt and K Christmann 'Children of Prisoners: Interventions and mitigations to strengthen mental health' (University of Huddersfield, 2013) <http://eprints.hud.ac.uk/18019/>

¹³ Committee on the Rights of the Child, Concluding observations on the fifth periodic report of Sweden adopted by the Committee at its 68th session (12 – 30 January 2015), CRC/C/SWE/CO/4 of 4 February, para. 35

¹⁴ Committee on the Rights of the Child, Concluding observations on the combined second to fourth periodic reports of Switzerland, CRC/C/CHE/CO/2-4 of 4 February 2015, para. 53

incarcerated parents who do not reside in institutional care are provided with sufficient psychological treatment and social support.”¹⁵

Children of incarcerated parents face marginalisation and stigmatisation in addition to the challenges posed by any parental separation that is not in their best interests. We welcome the steps the Human Rights Council has taken to date in recognising the rights of this group of children and call on the members and observers of the Human Rights Council to include children of incarcerated parents in their full day discussion on the rights of the child and in any action resulting from this discussion.

¹⁵ Committee on the Rights of the Child, Concluding observations on the combined third to fifth periodic reports of Mauritius, CRC/C/MUS/CO/3-5 of 4 February 2015, para. 48



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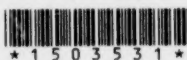
Written statement* submitted by the Friends World Committee for Consultation, a non-governmental organization in general consultative status

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A rights-based approach to ensuring the sustainability of food availability, accessibility and adequacy in the context of climate change

Introduction

Friends World Committee for Consultation (Quakers) welcomes the inclusion of a full-day panel discussion on human rights and climate in the work programme for the 28th session of the Human Rights Council, and supports the decision to dedicate half of this time to a discussion on the relationship between climate change and the Right to Food. The following statement is informed by our ongoing work on food and sustainability and climate change, and focuses on the role of biodiversity in supporting resilience to climate change impacts among small-scale farmers.

States parties to the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognize the right to adequate food pursuant to article 11, and have undertaken a variety of measures to incorporate this right into constitutions, judicial systems, institutions, policies and programs and to ensure its progressive realization.¹ The growing justiciability of right to food violations provides individuals with a means of pursuing recourse in times of emergency.² A rights-based approach is now being called upon to facilitate the realization of food security in an era of climate change, where States must provide more proactive rather than retroactive affirmation of the right to food. Ensuring the *sustainability* of food availability, accessibility and adequacy for future generations demands heightened awareness of the threats facing agricultural production systems today and the types of measures needed to actively facilitate adaptation in the coming years. The Committee on Economic, Social and Cultural Rights (CESCR) has affirmed that it is no longer sufficient for the right to adequate food to be affirmed based on prevailing social, economic, cultural, climatic, ecological and other conditions.³ Therefore, States' obligations now extend to the protection of the means for achieving food security under future and unknown scenarios.

Agricultural biodiversity (agrobiodiversity), cultural diversity and the diversity of management practices employed within traditional farming systems provide small-scale farmers with the ability to cope with external stresses and fluctuations, be they environmental or market related. FWCC recognizes the contributions of small-scale farmers, in their roles as experimenters, innovators and custodians of agrobiodiversity, as integral to the pursuit of global food security, particularly in the context of climate change. Using a rights-based approach to protect and foster their adaptive capacity will provide a framework for spurring innovation, promoting conservation and raising the status of small-scale farmers from 'most vulnerable' to 'most valuable' - effectively re-orientating investment in agriculture towards the needs of those on the frontline of climate change and food production.

Threats facing production

Industrial agriculture is a major contributor to climate change, biodiversity loss and the degradation of land and freshwater ecosystems,⁴ and is pushing us beyond critical planetary boundaries.⁵ Both the expansion of agricultural land into new areas and the intensification of production have negative environmental impacts. Agriculture accounts for

¹ O. de Schutter (2010). Countries tackling hunger with a right to food approach. Briefing note 1.

² *ibid.* See cases in India, Nepal, Brazil, Argentina, Colombia, Switzerland, Paraguay and South Africa.

³ CESCR General Comment No. 12: The Right to Adequate Food (Art. 11), para 7.

⁴ J.A. Foley et al (2011) Solutions for a cultivated planet, *Nature* 478: 337-342.

⁵ J. Rockstrom et al (2009). A safe operating space for humanity. *Nature* 461, 472-475.

between 30 and 35 percent of global greenhouse gas (GHG) emissions⁶ and almost one quarter of anthropogenic GHG emissions.⁷

Implications in terms of food production and food security are two-fold. First, climate change and environmental degradation is threatening the viability of production around the world.⁸ Second, the expansion of the industrial agriculture model is contributing to the erosion of genetic diversity, associated traditional knowledge and traditional farming practices, effectively disarming both small-scale farmers and other "modern" crop breeders in their efforts to adapt to climate change.

The impacts of climate change on agriculture vary significantly by region and the model used. There is no consensus on whether net productivity gains may be achieved in some regions, such as in the temperate zone where growing seasons may be lengthened, or if increased sensitivity to disturbances will be felt everywhere, reducing crop production across the board.⁹ The Fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC), while affirming that climate change will affect both crop yields and soil organic carbon levels, highlights the immense degree of uncertainty surrounding the net impacts of climate changes on agriculture on account of the large number of contributing variables.¹⁰ The Food and Agriculture Organization of the United Nations (FAO) asserts that in each of the IPCC's projected climate change scenarios the geographic distributions of crop species will be affected faster than they are able to migrate.¹¹ Changes in crops' phenological cycles, migration patterns and population distributions have already been documented,¹² and these changes will affect whole food chains.

Crop breeders trying to keep pace with climate change are faced with more, and compounding, unknowns. Predicting which traits will be required is difficult given the unpredictability of climate change¹³, and current understandings of the genetic base of traits relevant for adaptation are incomplete.¹⁴ The development of a single new variety takes on average ten years, during which time breeders cannot practically evaluate their material under future growing conditions.¹⁵

The best defence against unpredictability is diversity. The vast majority of genetic and species diversity is maintained on-farm in the form of diverse portfolios of landrace varieties and crop wild relatives (CWR) adapted to local conditions. However, the shift away from traditional production systems and the cultivation of landrace varieties¹⁶ has resulted in a loss of 75 percent of plant genetic diversity,¹⁷ and is most reported in the case of cereals where modern breeding efforts are most concentrated.¹⁸ Wale et al (2011) explain that farmers have financial incentives to replace diverse sets of landrace varieties with monocultures of uniform, high-yielding varieties, and abandon traditional

⁶ R. DeFries and C. Rosenzweig (2010). Toward a whole landscape approach for sustainable land use in the tropics. *Proceedings of the National Academy of Sciences, USA*, 107:19627-19632.

⁷ P. Smith et al (2014). Agriculture, Forestry and Other Land Use (AFOLU). Fifth Assessment Report of the Intergovernmental Panel on Climate Change.

⁸ O. de Schutter (2014). Final report: The transformative potential of the right to food. United Nations Human Rights Council: Geneva. A/HRC/25/57.

⁹ D.B. Lobell, W. Schlenker and J. Costa-Roberts (2011). "Climate trends and global crop production since 1980". *Science*, 333(6042): 616-620.

¹⁰ *supra* note 7.

¹¹ FAO (2010). Second report on the state of the world's plant genetic resources for food and agriculture. Rome.

¹² Secretariat of the Convention on Biological Diversity (2010) Global Biodiversity Outlook 3.

¹³ See E.C. Brummer et al (2011). Plant breeding for harmony between agriculture and the environment. *Frontiers in Ecology and the Environment*, 9(10): 561-568.

¹⁴ See for example L. Cattivelli et al (2008). Drought tolerance improvement in crop plants: An integrated view from breeding to genomics. *Field Crops Research*, 105(1-2): 1-14.

¹⁵ M.A. Semenov and N.G. Halford (2009). Identifying target traits and molecular mechanisms for wheat breeding under and changing climate. *Journal of Experimental Botany*, 60: 2791-2804.

¹⁶ Reports documented in FAO (2010), *supra* note 11.

¹⁷ D. Nierenberg and B. Halweil (2005). *Cultivating Food Security*, New York, W. W. Norton & Co.

¹⁸ *supra* note 11.

agricultural systems.¹⁹ Repercussions will be felt in terms of nutrition, resilience against environmental stress²⁰ and loss of traditional knowledge.

Modern varieties can offer immense public benefit. Paradoxically, however, breeding new varieties adapted to predicted climate change scenarios is predicated on the availability of genetic variation within and between crop species, while their dissemination contributes to the erosion of this diversity. This is the case even when improved stress tolerance is achieved in climate change-affected areas. Particularly when the adoption of modern varieties is accompanied by higher input costs, indebtedness and monoculture practices, farmers are left more vulnerable to environmental change and market fluctuations than they were at the onset.²¹ This runs counter to the goal of fostering of adaptive capacity.

Measures that support and foster adaptation and mitigation

As an alternative to the industrial agricultural model, agroecology has been promoted as a means of mitigating the environmental impacts of food production while at the same time enhancing farmers' capacities to adapt to environmental feedback. This approach encompasses a wide variety of measures for increasing resource efficiency and lowering the use of external inputs such as agroforestry, intercropping, water harvesting in drylands areas, integrated nutrient management, integrated livestock management and the maintenance of on-farm diversity.²²

Agroecology and modern breeding are complementary,²³ to the extent that the needs and priorities of small-scale farmers are reflected in breeding targets, farmers participate in the selection of parent material to ensure that improved varieties are adapted to local conditions, neglected and under-utilized crops are included in breeding programs, and access to improved varieties are available without restriction. While some displacement of traditional varieties may occur, modern varieties incorporate the genetic diversity found within locally-adapted material. Participatory plant breeding reinforces and contributes to traditional knowledge. Diverse farm management practices are not replaced with a uniform, production-oriented model but rather supported with investment in extension services and research programs.

FWCC recognizes agroecology as a means of supporting small-scale farmers in their roles as experimenters, innovators and custodians of agrobiodiversity. Farmers experiment with new varieties in home gardens, innovate by integrating new and traditional farming practices to address current challenges and adapting modern varieties to suit local conditions. Informal seed systems in particular allow farmers' economic independence and resilience when faced with new pests, diseases or environmental fluctuations.²⁴

We also recognize agroecology as means of re-orientating investment in agriculture to more accurately reflect the needs and priorities of small-scale farmers. Far from being passive recipients of technological solutions,²⁵ small-scale farmers are the first to feel the effects of climate change and the first to respond in creative ways. Collaborations between researchers and farmers that co-create knowledge and complement and build upon innovation at the farm level have immense potential to improve both climate change mitigation and adaptation.²⁶

¹⁹ E. Wale, A.G. Drucker and K.K. Zander (eds) (2011). *The economics of managing crop diversity on-farm: Case studies from the genetic resources policy initiative*. Routledge.

²⁰ Heal et al. (2004). "Genetic diversity and interdependent crop choices in agriculture", *Resource and Energy Economics*, 26(2): 175-184.

²¹ O. de Schutter (2009). *Seed policies and the right to food: enhancing agrobiodiversity and encouraging innovation*. A/64/170

²² O. de Schutter (2010). Report submitted by the Special Rapporteur on the right to food. A/HRC/16/49

²³ *supra* note 8.

²⁴ *supra* note 21.

²⁵ T. Chopra (2014). "Persistent narratives, persistent failures: Why GM crops do not - and will not - feed the world," *Mapping the state of play on the global food landscape*, Waterloo, September 26-27, 2014.

²⁶ L. Levidow, M. Pimbert and G. Vanloqueren (2014). Agroecological Research: Conforming or Transforming the Dominant Agro-Food Regime? *Agroecology and Sustainable Food Systems*, 38(10): 1127-1155.

Recommendations

FWCC believes that States' obligations to realize the right to food should entail a recognition of the value of agrobiodiversity, cultural diversity and diverse farm management practices in helping small-scale farmers adapt to changing growing conditions. Having a rights-based legal framework and national strategies in place will facilitate the implementation of proactive measures to secure food availability, accessibility and adequacy in the long term.

We therefore call on the Council to:

- Recognise that agrobiodiversity is a critical component of small-scale farmers' ability to adapt to climate change impacts, and therefore a factor in ensuring resilience among rural populations; and
 - Encourage the design of appropriate strategies that would support and promote small-scale farmers working in agrobiodiverse situations.
 - Urge States to:
 - *Respect* the right to food by refraining from acting in ways that contribute to the erosion of genetic diversity in an evolutionary context and loss of traditional knowledge and traditional agricultural practices as they evolve and respond to increasingly unpredictable change;
 - *Protect* the right to food by ensuring that third parties do not contribute to the undermining of small-scale farmers working in in agriculturally biodiverse situations and the loss of diversity within crops, amongst crops and agro-ecological landscapes;
 - *Fulfil* the right to food by establishing political, economic, and social systems that proactively support and foster adaptive capacity before food.
-



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**Promotion and protection of all human rights, civil,
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including the right to development**

Written statement* submitted by the Maarij Foundation for Peace and Development, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

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The General Elections in Sudan 2015

It is undoubted that regular and fair elections is one of main features of democratic regimes and that it is the sole means for realizing systematic and peaceful transfer of power and for the citizens to practice their electoral rights as guaranteed by the Constitution and the international laws.

In accordance with the General Elections Act 2008 amended 2014, Sudan enters its second round of general elections in 2015 having conducted the first round in 2010.

Within the context of its project on the issues of electoral ,democracy and peaceful transfer of power, the Maarij foundation for peace development (MFPD) considerably focuses on the compelling need for consolidating the culture of democratic elections and enhancing the negotiation and consultation efforts for building up a permanent national constitution as the most appropriate means for power transfer. The (MFPD) conceives the constitution as being the main guarantor of the electoral process by identifying the political, electoral and legislative systems and the main components of the State such as federalism and others. Elections give a valuable mechanism to avoid the hazards of armed conflict and violence.

In this regard the (MFPD) expresses its deep appreciation for the steps taken towards enhancing democracy and peace building in Sudan as demonstrated by the national dialogue initiative presented by the Government of Sudan together with a strategic plan which aims, according to the Government, to arrive at a real democracy and realize the rule of law, with the participation of all political powers. This trend was consolidated further by amending the General Elections Act to allow for a wider participation and representation.

Moreover, the independent and impartial nature of the National Elections Commission was enhanced further when it was re-formulated with the consent of the different political powers to enable it act more efficiently towards enhancing democracy, good governance and peace in Sudan.

The (MFPD) commends as well the early preparations made by the National Elections Commission by setting a time schedule for conducting the elections in April 2015 allowing a good opportunity for the different factions to make their own arrangements for the round. The updating and publishing of the electoral record took more than two month, followed by the nomination period in the first week of last January in which most of the political parties and independent candidates have participated and subsequently entered the competition for the seats of the National Parliament and the state parliaments together with the contest for the Presidency of the Republic in which fifteen candidates are competing including one woman.

Currently, the process is entering the phase of electoral campaigns which will last up to April 11th followed by balloting stage and the counting and sorting phases. Many local, regional and international organizations are engaged in arrangements for observation roles. The reports issued by the Elections Commission informed that more than 80 regional and international organizations have submitted applications for observing the elections.

The most serious threat for the elections and for democratic transformation is posed by the armed movements in Darfur, South Kurdofoan and Blue Nile.

The (MFPD), while observing and watching the general election process would like to point out that the most serious challenge to democracy and peaceful transfer of power is represented by the negative role of the armed movements in Darfur, South Kurdofoan and Blue Nile through creating hostile lobbies targeting political change by violent means. The

opportunity was provided to these movements to strengthen the electoral experience through democratic means and to opt for participating in the elections, compete through peaceful means and save the country from the risks of violent conflict.

Within the above elucidated context the (MFPD) states the following:

- **First:** Calls upon your esteemed Council to support the steps taken towards realizing peaceful means for power transfer through free and fair elections and exert pressure on the armed movements to abandon violence and resort to peaceful means and acknowledge that elections is the most appropriate means to access power.
 - **Second:** Call upon the Government to prepare a suitable political environment before, during and after the electoral process and to work for completing the strategies of national dialogue it had recently initiated.
 - **Third:** Call upon the National Elections Commission to benefit from the experience of the previous elections, take every necessary precaution to avoid repetition of any previous shortcomings and guarantee a transparent, free and fair electoral process.
 - **Fourth:** Call upon all political parties to enhance the democratic experience in Sudan and engage in the current electoral process to maintain political stability.
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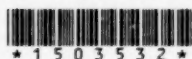
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Procedural Rights, Peacebuilding and the Prevention of Destructive Conflict around Water, Land and Food

Friends World Committee for Consultation (Quakers) welcomes the report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment. We are pleased to see the attention given to good practices of all stakeholders – local communities, Indigenous peoples, states and businesses – and there is much here to inspire and adapt for those seeking to further human rights in relation to the environment. We agree with the Independent Expert when he speaks of the “many innovative and exemplary efforts being made to bring a human rights perspective to environmental protection”¹ and we would like to point to the close link to the prevention of destructive conflict.²

Our comments in this statement will refer principally to the following categories used in the report: (c) the obligation to facilitate public participation in environmental decision-making and (i) obligations relating to those in vulnerable situations.

Procedural rights - to information, participation and remedy³ - help underpin inclusive and participatory decision making that is crucial to prevent destructive conflict - and even violence - around natural resources. The recognition of procedural rights alone, however, will not ensure the effective participation of all stakeholders, especially vulnerable and marginalized groups, such as women, the poorest and those facing stigma.

Poorly planned, exclusive environmental decision making can create, or exacerbate, destructive conflict, contributing to a breakdown of communication among groups, damaging social relations or escalating tensions that can lead to violence. In contrast, successfully implemented procedural rights can help give all stakeholders, including marginalized and vulnerable groups, a voice in environmental decision making, helping to build sustainable and peaceful environments for everyone.

In order to participate effectively in decisions relating to the environment it is necessary to have access to all the relevant information, and both access to information and participation in decision making mean little if there are no review mechanisms and access to justice in place when such rights are denied. However, there are also other important factors relevant to the fulfilment of procedural rights with regard to the environment. In many environmental matters there is a potential for injustice and conflict within and between social groups. In order to be able to respond to conflict constructively, local communities and other stakeholders need the capacity to analyse the situation, understand the options available to them and articulate their needs and aspirations. This is where peacebuilding approaches can contribute.

In short:

- Procedural rights in relation to the environment can help prevent destructive conflict
- Peacebuilding approaches can help make procedural rights in relation to the environment effective

¹ Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox, February 2015

² Conflict in itself is not negative. It is an inevitable part of life and can function as a motor for change and development in society if handled constructively. Conflict becomes destructive when it leads to a breakdown of communication among groups, damaging social relations and exacerbating tensions that can lead to violence.

³ Knox, Op.cit, paragraph 31 of the Report

When we refer to peacebuilding, we understand by that term both the development of human and institutional capacity for resolving conflicts without violence, and the transformation of the conditions that generate destructive conflict. In this sense it is closely allied to the prevention of destructive conflict and is not only relevant to post-conflict settings.

Peacebuilding approaches focus on building capacity among local communities, building opportunities and providing tools for social groups to understand their own and others' needs and resolve conflicts constructively within and between communities. Peacebuilding approaches also address confidence issues and power imbalances that often affect decision making, as well as seeking to strengthen non-violent communication skills. Individuals and groups can then engage in joint problem solving with other stakeholders, developing solutions and environmental management plans that are legitimate and accepted by all parties. Such work helps lay the foundations necessary for social groups to respond effectively to the environmental information with which they are provided and the opportunities to participate in decision making which constitute, in part, the exercise of their human rights in relation to the environment.

The Independent Expert highlights in category (i) of his report, obligations to those in vulnerable situations. It is essential to prevent discrimination through special efforts to include marginalized and vulnerable stakeholders, such as women, the poorest and those facing stigma or oppression.

These stakeholders are often excluded from decision making processes even when there are opportunities for the public to input into environmental policy. It is often difficult to reach all community groups without careful planning and consideration of the needs and challenges each group faces. For instance, the time, place and format of public discussions and training workshops can inhibit the access and participation of some groups; it is essential to accommodate young peoples', women's or other marginalised groups' responsibilities with school, paid or unpaid work, childcare or livelihood activities, to ensure the full participation of all groups affected. In some areas, such lack of access is related to wider patterns of social exclusion and discrimination, presenting other challenges that need to be addressed in order to secure full and effective participation

Good Practice Examples

We were very pleased to see reference to the work of our colleagues in Namati/CTV/LEMU/SDI and Natural Justice in the report of the Independent Expert, particularly because we believe that these examples illustrate the mutually reinforcing nature of human rights and peacebuilding approaches. In Paragraph 47 of the report, reference is made to the facilitation of public participation in decision making on environmental matters by Namati, which together with its partner organizations - CTV (Centro Terra Viva - Mozambique), LEMU (Land & Equity Movement in Uganda) SDI (Sustainable Development Institute - Liberia), is currently running Community Land Protection Programs in Liberia, Uganda, and Mozambique. Their approach uses grassroots paralegals and this model is influencing practice in other settings, including Myanmar, Kenya, and North Dakota, United States.

Namati and their colleagues work with local communities using legal empowerment and participatory peacebuilding approaches to create positive change around rural environmental management. They state that "[t]o be most effective, community land documentation activities should combine: 1) the *technical* work of mapping and titling community lands with 2) the *peace-building* work of land conflict resolution and 3) the *governance* work of strengthening land and natural resource management and ensuring intra-community equity⁴.

They help bring together social groups that share an environment (such as a common grazing area or wetland) to analyse their needs and aspirations, document community rules for land and natural resource use, and facilitate communities to resolve their own land-based conflicts in order to document their communal land claims. "[W]ell

⁴ Namati/CTV/LEMU/SDI's submission to the Independent Expert's call for good practice examples

facilitated, community land documentation efforts may help to protect rural communities' land claims, livelihoods, and way of life, reduce conflict and instability in the long term, promote environmental sustainability, improve women's participation in decision-making, and foster endogenously-driven community development."⁵

In a similar way, our colleagues at Natural Justice work with biocultural community protocols (BCPs), as referred to in the Independent Expert's report⁶, which provide a community, or group of communities, the ability to set out for others:

- Who they are;
- The relationships between their land, natural resources, culture and traditional knowledge;
- Their aspirations and related challenges; and
- Claim the full spectrum of rights that support them under customary, national and international law.⁷

This methodology combines legal empowerment with community organization, in effect using peacebuilding approaches, to help communities develop local strategies to to access their rights and define local responsibilities.

The Role of the Various Stakeholders in facilitating public participation in decision-making on environmental issues

As mentioned, the procedural rights discussed here require more than legal implementation, they require certain preconditions in order to be effective. There is, rightly, much focus on building the confidence and capacity of local communities in order to make effective use of their procedural rights, however, new skill sets and attitude change is needed at all levels. Capacity building is also needed within relevant national and local government departments so they are able to take on a more facilitative role in supporting collective decision making that responds to local needs in environmental matters.

The Independent Expert refers in his report to the Guiding Principles on Business and Human Rights.⁸ These call for businesses to meaningfully engage with groups who will be affected by their business activities. Businesses are increasingly aware of the importance of engaging with local communities throughout the process of a business activity, starting at the planning stages of a project. This is particularly important in projects that affect local access to, and control of, natural resources such as land, water and food.

Despite clear legal obligations, business-community engagement is too often superficial, leading to distrust and frustration among local communities⁹. Business projects that do not recognize the legal rights of local communities, or give them an insufficient voice in decision making, can lead to conflict, and even violence. Businesses are increasingly learning that such negative impacts affect the medium and long term effectiveness and success of business projects.

Some companies are already aware of the need to improve their understanding of the social, cultural and political context within which they are operating. Improving their knowledge of the rights of local communities is a key element of this, as well as understanding that local communities are not one distinct, homogenous group, but often a community with different and competing interests. This does not diminish their individual and collective rights relating to natural resources. To respond to the realities of company-community engagement rather than implementing pre-conceived

⁵ Ibid

⁶ Knox, op.cit. paragraph 102

⁷ Natural Justice's submission to the Independent Expert's call for good practice examples

⁸ Knox, op.cit. paragraph 79

⁹ See, for example, Minority Rights Group International (2012) State of the World's Minorities and Indigenous Peoples 2012: Focus on Land Rights and Natural Resources, Minority Rights Group International, UK

directives, company officials require capacity building to develop new skills associated with facilitation, exploration, analysis and planning.

To develop effective multi-stakeholder platforms and other dialogue processes, it is necessary for companies to build partnerships with local groups and capacity builders at the early planning stages of a project. This takes time, but this time investment is critical for the medium and long term effectiveness of business projects. Such partners can help play a mediating role in company-community negotiations, as well as facilitate better understanding of customary use of land, water and other natural resources among local communities. In order to effectively respect human rights community engagement needs to be built into the underlying strategy of a business project, including integration into internal reporting and monitoring processes, and the development of meaningful accountability and grievance mechanisms

The Impact of Climate Change

The Independent Expert chose to take climate change as one of his thematic focuses during the past year and he states that “[c]limate change may be the most challenging international environmental threat to human rights”¹⁰. Indeed climate change makes it increasingly urgent to address procedural rights and their contribution to the constructive handling of conflict. Rising greenhouse gas emissions will lead to greater uncertainty in precipitation levels, growing seasons, extreme weather events and significant seasonal temperature increases. Societal resilience to these uncertainties can be increased by putting in place conflict prevention and management systems that relate to the environment. Central to these will be the availability of appropriate and relevant information, the ability of all citizens to participate in environmental decisions that affect them, and access to justice in cases where these rights have been violated. Building a policy environment which respects and protects procedural rights in relation to the environment will provide a solid base from which to address increasing climate uncertainties now and in the coming decades.

¹⁰ Knox, *op.cit.* paragraph 88



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Agenda item 4

Human rights situations that require the Council's attention

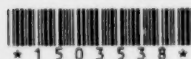
Written statement* submitted by the Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-03538 (E)



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The Human Rights Situation in Myanmar

1. Human Rights Now (HRN), a Tokyo-based international human rights organization, welcomes positive human rights developments in Myanmar in 2014, such as the recent attempts by the Myanmar government to increase its cooperation with the international community. It is particularly commendable that the government intensified its cooperation with the International Labour Organization (ILO) to end forced and child labour, and that the government ratified ILO Convention 182 and signed the *Declaration of Commitment to End Sexual Violence in Conflict*. However, several human rights violations continued to be reported throughout 2014.

2. HRN notes with disappointment that Myanmar's government failed to amend the Constitution in 2014 to meet international human rights standards and ensure democracy. Myanmar's government has also neglected repeated calls for ratification and implementation of a number of human rights treaties and extensive legal reforms to meet international human rights standards. HRN stresses that ensuring human rights and fundamental freedoms for all, without discrimination, is a core responsibility of States and a crucial step for Myanmar's government to take in order to transition towards a true democracy.

3. HRN regrets that several outdated draconian laws are used to silence critical voices in Myanmar. Despite promises to release all political prisoners before January 1, 2013, 81 political prisoners remained jailed in December 2014, while 78 farmers were imprisoned and another 203 political and human rights activists awaited trial, according to the Assistance Association for Political Prisoners-Burma.¹

The *Unity* journal case constituted one of the severest attacks on free media in Myanmar during the year: four journalists and the CEO of *Unity* were sentenced to ten years imprisonment with hard labour after they published coverage of an alleged chemical weapons factory.² Another serious attack on independent media was the fatal shooting of freelance journalist Aung Kyaw Naing (also known as Par Gyi) by the State army in September. His exhumed body showed signs of torture, which he presumably endured while in military custody.³ Legal action, violence and threats were also widely used against political and human rights defenders, including organizers of protests and demonstrations. For example, Movement for Democracy Current Force member Htin Kyaw was arrested in May 2014 and later received prison sentences totalling more than 13 years for his involvement in land rights protests and publishing a statement about Aung San Suu Kyi.⁴

4. HRN condemns the continued use of rape as a weapon in war by the State army. The Women's League of Burma (WLB) in January 2014 documented over 100 cases of rape against women and girls by the State army under President Thein Sein's government. 47 of these cases involved gang rapes, and 28 of the victims were killed or died as a result of injuries sustained during the rape. Most rapes occurred in resource-rich Kachin and Shan States.⁵ WLB followed up this

¹ Assistance Association of Political Prisoners -Burma, *December 2014 Chronology*, January 13, 2015, page 1, <http://aappb.org/wp-content/uploads/2015/01/AAPP-December-2014-Chronology-final-style.pdf>, retrieved on January 19, 2015.

² CPJ, "2014 prison census: 221 journalists jailed worldwide", December 1, 2014; updated December 9, 2014, <http://www.cpj.org/imprisoned/2014.php>, retrieved on January 19, 2015.

³ SCPJ, "Journalists killed" > "2014" > "Aung Kyaw Naing 'Par Gyi'", undated, <https://cpj.org/killed/2014/aung-kyaw-naing-par-gyi.php>, retrieved on January 19, 2015.

⁴ Nobel Zaw, "Activist Hit With Additional Sentence, Totalling Over 13 Years", *The Irrawaddy*, October 31, 2014, <http://www.irrawaddy.org/burma/activist-hit-additional-sentence-totalling-13-years.html>, retrieved on January 19, 2015.

⁵ Women's League of Burma (WLB), *Same Impunity, Same Patterns: Sexual abuses by the Burma Army will not stop until there is a genuine civilian government*, January 2014, page 1, http://womenofburma.org/wp-content/uploads/2014/01/SameImpunitySamePattern_English-final.pdf, retrieved on January 19, 2015.

report with another report in November providing evidence of an additional 14 cases of sexual violence by the State army since the January report.⁶

5. HRN reiterates its concern that foreign investment projects accelerate human rights violations under the name of "development." HRN notes with concern how the continuation and expansion of natural resource-based projects has resulted in forced mass-relocations of local communities and large-scale land confiscations. The Myanmar National Human Rights Commission (MNHRC) disclosed that nearly half of the complaints reported in 2014 – 547 out of a total of 1,220 from January to August – concerned land rights issues.⁷ However, people from affected communities who questioned ongoing land confiscations risked arrest and prosecution, such as when 190 farmers in Pharuso township, Kayah State, were prosecuted in May for "trespassing" after staging a plough protest; ten were subsequently sentenced to jail while another ten were fined. In July and August, 450 farmers from Kanbalut township, Sagaing Region, were threatened with prosecution under various laws; more than 50 received prison sentences ranging up to three years.⁸ In December, 56-year old villager Khin Win was killed by police when she protested against land confiscations by Chinese company Wanbao, which is currently exploring a copper mine near Monywa in Sagaing Region as part of a joint venture with state-owned Union of Myanmar Economic Holdings Ltd.⁹

HRN is further concerned about several armed conflicts that have erupted or escalated in areas where development projects are being carried out. For example, militarization increased at the Tasang dam site in Shan State to the point that there were some 9,000 government troops surrounding the dam in October.¹⁰ Additionally, in November, 23 cadets from various non-State armed groups, who attended a military training in Laiza in Kachin State, were killed by the State army. Shells were fired near an IDP camp only days later, putting some 10,000 people in danger.¹¹ These breaches of the ceasefire between the Kachin Independence Army and the State army are examples of how the military's interests in natural resources are prioritized over human security and long-lasting peace.

⁶ WLB, "If they had hope, they would speak": The ongoing use of state-sponsored sexual violence in Burma's ethnic communities,

November 2014, page 1,

http://womenofburma.org/wpcontent/uploads/2014/11/VAW_Iftheyhadhope_TheywouldSpeak_English.pdf,
retrieved on January

19, 2015.

⁷ Of all land disputes reported to the MNHRC since its inception, approximately one-third were reported in the first eight months of

2014 alone. See Nobel Zaw, "Land Disputes Leading Cause of Human Rights Complaints", *The Irrawaddy*, November 12, 2014,

<http://www.irrawaddy.org/burma/land-disputes-leading-cause-human-rights-complaints.html>, retrieved on January 16, 2015.

⁸ Asian Human Rights Commission, "BURMA/MYANMAR: Farmers face prison sentences for trespassing and move to remote

prisons", July 24, 2014,

<http://www.humanrights.asia/news/ahrc-news/AHRC-STM-143-2014>, retrieved on January 16, 2015; *Al Jazeera America*,

"Plow protesters lose land and liberty in Myanmar", November 12, 2014,

<http://america.aljazeera.com/articles/2014/11/12/myanmar-arrests-pointtodangerousfuture.html>, retrieved on January 16, 2015.

⁹ Yen Snaing, "Police Asked to Probe Letpadaung Death", *The Irrawaddy*, January 5, 2015,

<http://www.irrawaddy.org/burma/police-asked-probe-letpadaung-death.html>, retrieved on January 19, 2015.

¹⁰ Denis D. Gray, "Dam Projects Risk Re-Igniting Myanmar's Civil War", *Associated Press*, December 11, 2014,

<http://burmariversnetwork.org/index.php/news/1003-dam-projects-risk-re-igniting-myanmar-s-civil-war>, retrieved on January 19,

2015.

¹¹ Burma Partnership, "How Many More Lives? Burma Army Must Immediately Halt Its Offensives in Kachin State", December 2,

2014, [http://www.burmapartnership.org/2014/12/how-many-more-lives-burma-army-must-immediately-halt-its-offensives-in-](http://www.burmapartnership.org/2014/12/how-many-more-lives-burma-army-must-immediately-halt-its-offensives-in-kachin-state/)

[kachin-state/](http://www.burmapartnership.org/2014/12/how-many-more-lives-burma-army-must-immediately-halt-its-offensives-in-kachin-state/), retrieved on January 19, 2015.

6. Due to domestic laws granting ownership of natural resources to the central government, the government has the right to confiscate land that is perceived to be "vacant," or if there is a perceived State interest in doing so. This has enabled authorities to seize land left behind by stateless Rohingya minorities being relocated to segregated townships or detention camps in northern Rakhine State. Following the 2014 census, in which they were denied the right to self-identify as Rohingya, 850,000 persons are estimated to hold temporary identity documents – so-called "white cards" – that only grant them partial rights and freedoms.¹² Stripped of their land, homes, and recognition as legitimate citizens of Myanmar, Rohingya communities faced several human rights violations in 2014, including limitations on their freedom of movement and to choose their marital partner. They further faced birth restrictions; scarcity in food, clean water and medicines; restricted access to education and health services; physical and sexual violence; and killings.

7. In response to these challenges, HRN calls upon Myanmar's government and related State bodies to:

- Amend the Constitution in conformity with international human rights standards before the general elections;
- Amend draconian laws that restrict people's human rights and fundamental freedoms, including the Peaceful Assembly and Peaceful Procession Law and the State Secrets Act, to meet international human rights standards;
- Ensure that elections are free and fair, including by allowing international observers and not interfering with their role as observers;
- Review the effectiveness of current land dispute mechanisms, including scrutinizing the work and results of the MNHRC;
- Ensure that offenders among State officials, including from the army and the police, are prosecuted and punished according to law and that victims of human rights violations committed by State officials have access to redress and reparation;
- Lift all arbitrary restrictions against the Rohingya and abolish all discriminatory policies targeting the Rohingya community;
- Take action against hate speech, racial discrimination and extremist propaganda;
- Ratify and implement all major international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture (CAT) and the Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

¹²Nyein Nyein, "Thein Sein Pushes Referendum Suffrage for White Card Holders", *The Irrawaddy*, December 22, 2014.
<http://www.irrawaddy.org/burma/thein-sein-pushes-referendum-suffrage-white-card-holders.html>, retrieved on January 19, 2014.



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Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

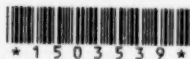
Written statement^{*} submitted by the Human Rights Now, a non-governmental organization in special consultative status

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Abide by the Rules of International Law in Counter-Terrorism Actions While Addressing the Conditions Conducive to the Spread of Terrorism

1. Introduction

In the past few months, the international community has witnessed ever-growing threats of global terrorism by extremist groups that spread fear by means of violent acts designed to shock the conscience. The Islamic State of Iraq and the Levant (ISIL) has perpetrated heinous murders of a number of journalists and aid workers they had captured and taken hostage, including the beheadings of British aid workers, Alan Henning and David Haines, American journalists, James Foley and Steven Sotloff, and Japanese journalist, Kenji Goto.

In France, journalists and cartoonists from the weekly paper *Charlie Hebdo* were brutally slaughtered in an attack on the newspaper's office for which the associates of Al-Qaida in Yemen claimed responsibility. Meanwhile, in Nigeria, Boko Haram has continued its campaign of violence, conducting targeted attacks to schools and abducting schoolgirls to exploit them for sexual abuse and forced marriage.

These egregious acts of violence against civilians have attracted widespread condemnation from the international community, and Human Rights Now (HRN), a Tokyo based international human rights NGO joins its voice by unequivocally condemning terrorism.

No matter how the perpetrators purport to justify their acts as manifestations of their political, religious or other positions, terrorism in all its forms, committed by whomever, wherever and for whatever purposes, is unacceptable and we consistently condemn it as it represents total disregard of the rule of law as well as one of the most serious threats to international peace and security.

Faced with this situation, the UN is currently urged to strengthen its initiatives in the field of counter-terrorism. In regards to this development, Human Rights Now wishes to bring the attention of the Human Rights Council to the following two points:

2. The Need to Abide by the Rules of International Law in Counter-Terrorism Activities

First, the fight against terrorism must be conducted in compliance with international law. Expressing its "gravest concern" that parts of Iraq and Syria are now under the control of ISIL and the Al-Nusra Front, the Security Council, in Resolution 2170 (2014), condemned the recruitment by ISIL and Al-Nusra of foreign fighters; and it listed six individuals affiliated with those groups under the Al-Qaida sanctions regime set up by Resolutions 1267 (1999) and 1989 (2011). Resolution 2178 (2014) called upon member States to respond to the threat of foreign terrorist fighters through effective border controls as well as to prevent and suppress the recruiting, organizing, transporting or equipping of individuals who travel to a State other than their States of residence or nationality for the purpose of terrorist acts. In the wake of hostage-killings including the Japanese journalist, the Security Council passed Resolution 2199 (2015) bolstering the Council's previous measures to cut off financing for ISIL and its affiliates.

While HRN understands the need for these measures, member States must comply with international law including international human rights law, refugee law and international humanitarian law in adopting them¹. It is to be recalled that terrorism cannot and should not be automatically associated with any particular religion, nationality, or civilization.

¹ This point is also reaffirmed in paragraph 5 of Resolution 2178 (2014).

For example, racial profiling in border controls, targeting persons of a certain race, religion, national or ethnic origin – real or perceived – solely on the basis of such characteristics, may amount to racial discrimination and thus run counter to a fundamental principle of international human rights law.

On the other hand, we have to point out that military intervention against ISIL gives rise to the question of the legality of such intervention under international law, which prohibit the use of force except in the case of self-defense in response to an armed attack (Article 51 of the UN Charter) and in situations in which the Security Council decides to take forcible measures under Chapter 7 of the Charter. The United States began airstrikes against ISIL, which controls parts of Iraqi and Syrian territory, in August 2014 in circumstances which fall into neither of the above two categories. With regard to the attack on Iraq, it may be said that the wrongfulness of the act in terms of international law is precluded, given that Iraq requested foreign assistance in its fight against ISIL² and later expressly consented to “international efforts to strike ISIL sites and military strongholds” led by the US³. However, Syria has not given consent to the airstrikes on its territory to this day. While a wide international consensus exists on the criminality of the acts of ISIL, unilateral military intervention without the authorization of the Security Council is contrary to international law. HRN urges all parties concerned intervening in the conflict to comply with international law, including international human rights and humanitarian law.

3. The Importance of Addressing Conditions Conducive to the Spread of Terrorism

Secondly, HRN is of the opinion that the international community should also address the “root causes” of terrorism, in other words, the conditions conducive to the spread of terrorism. Elements influencing the rise of terrorism may certainly be diverse, but if we take the case of the formation of ISIL, we cannot be blind to the historical background which led to the growth of Al-Qaida in Iraq that later became ISIL, including the unilateral attack on Iraq in 2003 by the US and UK, the resulting violent destruction of order, the subsequent occupation, and the ongoing sectional violence in post-invasion Iraq. During the US invasion, Saddam Hussein's former Ba'ath party officials were brutally murdered; and in the post-invasion period, Sunnis have been discriminated against and persecuted by the Shi'a-dominated government.

In recent years, for example, a massive protest against the government by those demanding the abolition of the anti-terrorism laws that they say are used to harass Sunnis took place in December 2012, demonstrating that Sunnis suffer from an acute sense of marginalization⁴. In January 2014, the government deployed the security forces in Ramadi and Fallujah in response to an alleged attack by anti-government fighters, conducting indiscriminate attacks by heavy mortar fire in populated residential areas without any protective measure for civilians⁵. ISIL in Iraq enlarged their power among locals amid such escalation of violence.

² Letter dated 25 June 2014 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General, S/2014/440 (2014). In this letter, the Representative of Iraq requested the international community to assist Iraq “by providing military training, advanced technology and the weapons required to respond to the situation”.

³ Letter dated 20 September 2014 from the Permanent Representative of Iraq to the United Nations addressed to the President of the Security Council, S/2014/691 (2014).

⁴ *Iraqi Sunnis stage big anti-government rallies*, <http://www.reuters.com/article/2012/12/28/us-iraq-protests-idUSBRE8BR08020121228>. “Many Sunnis, whose community dominated Iraq until the fall of Saddam Hussein in 2003, accuse Maliki of refusing to share power and of being under the sway of its non-Arab neighbor. ... Activists' demands include an end to the marginalization of Sunnis, the abolition of anti-terrorism laws they say are used to target them”.

⁵ *Iraq: Call for an immediate stop to indiscriminate attacks in Anbar province that have resulted in civilian casualties and thousands of IDPs*, <http://hrn.or.jp/eng/news/2014/01/22/iraq-call-for-an-immediate-stop-to-indiscriminate-attacks-in-anbar-province-that-have-resulted-in-civilian-casualties-and-thousands-of-idps/>.

Furthermore, there is no denying that torture and maltreatment of Muslims by the US forces in detention centers such as Abu Ghraib and Guantanamo Bay have greatly exacerbated resentment and hatred among Muslims against the US and the States that support it.

According to the Senate Intelligence Committee Study on the CIA's Detention and Interrogation Program released to the public in December 2014, the interrogations of CIA detainees were "brutal and far worse than the CIA represented to policymakers and others"; the CIA applied its "enhanced interrogation techniques" such as slaps, "wallings" (slamming detainees against a wall) and waterboarding, frequently concurrent with sleep deprivation and nudity⁶.

The orange clothing worn by ISIL hostages is modeled after the orange jumpsuits worn by inmates at Guantanamo Bay.

As the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism emphasized in his report, efforts to address the conditions conducive to terrorism form an important part of sustainable strategies to prevent terrorism⁷, a view with which HRN also concurs.

The UN Global Counter-Terrorism Strategy adopted by the General Assembly in 2006 clearly recognizes this, and the first chapter of the strategy is devoted to the issue⁸.

HRN urges States to undertake measures aimed at addressing such conditions, including peaceful resolution of conflicts, promotion of ethnic and religious tolerance, and the reinforcement of social inclusion that could reduce marginalization and the sense of victimization propelling people to extremism.

⁶ *Senate Select Committee on Intelligence Committee Study of the CIA's Detention and Interrogation Program. Findings and Conclusions*, http://www.feinstein.senate.gov/public/index.cfm/files/serve?File_id=a992171e-fd27-47bb-8917-5ebe98c72764&SK=04753BC866283C0F5913D7E1A24FA851.

⁷ E/CN.4/2006/98 (2005), paras. 64-65.

⁸ A/RES/60/288 (2006).



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**Promotion and protection of all human rights, civil,
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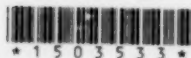
Written statement^{*} submitted by the Asian Forum for Human Rights and Development, a non-governmental organization in special consultative status

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Challenges to Human Rights Defenders (HRDs) in Sri Lanka in 2014¹

In 2014 Sri Lankan HRDs faced a number violations as enumerated below. A new government is in place after elections in January 2015 and it has made some positive commitments on investigating past reprisals against HRDs and journalists. Despite some such positive signs it's not clear yet if the culture of impunity in the Country will be reversed. The UN Human Rights Council and OHCHR should closely monitor the actions of the new government in Sri Lanka and require it to implement its commitments and end impunity.

1. Reprisals against those cooperating with the UN and for accountability for war crimes

The government's opposition to a UN investigation into allegations of gross human rights violations² was accompanied by a crackdown on advocates for accountability. Numerous human rights defenders were discredited as traitors and terrorist supporters³, attacked, threatened and accused by the state run media of giving false information to the UN Human Rights Council (UNHRC).⁴ Then President Mahinda Rajapaksha called supporters of the UN investigation as traitors opposed to peace⁵, threatened legal action against anyone who cooperated with the body⁶. Three HRDs were arrested during the March session of the UNHRC⁷ and one remains in detention as of 16th February 2015.⁸ Even the Minister of Justice was discredited for cooperating with the UN.⁹

The UN High Commissioner for Human Rights was also subjected to a smear campaign.¹⁰ While the investigation was in progress. In October 2014 a Tamil man was reportedly arrested by the Terrorism Investigation Division (TID) in

¹ INFORM Human Rights Documentation Centre (Inform), a member organisation of FORUM-ASIA in Sri Lanka, associates itself with this submission.

² The 25th Session of the United Nations Human Rights Council (UNHRC) passed a resolution condemning the continuing climate of impunity for past and present human rights violations and appointing a "comprehensive investigation into alleged serious violations and abuses of human rights and related crimes by both parties in Sri Lanka". See <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14447&LangID=E> for resolution. (Last accessed 10th Feb. 2015)

³ For example, see <http://srilankabrief.org/2014/09/pro-govt-mob-mocks-leading-civil-society-activists-in-sri-lanka/>, <http://srilankabrief.org/2014/08/puppies-for-sale-poster-campaign-to-intimidate-hrds/> and <http://srilankabrief.org/2014/08/sri-lanka-shoot-ngo-traitors-and-throw-them-foxes-to-eat/>, last accessed on 13th Feb. 2015)

⁴ <https://hrdc.files.wordpress.com/2014/08/reprisals-against-those-cooperating-with-the-un-inform-30may2014.pdf> (Last accessed 13th Feb. 2015)

⁵ <http://www.theuk.net/?p=28178> (last accessed 10th Feb. 2015)

⁶ <http://www.ceylontoday.lk/51-61100-news-detail-govt-warns-against-testifying-before-unhrc-inquiry.html> (last accessed 10th Feb. 2015)

⁷ They were Ms. Balendran Jeyakumari, Mr. Ruki Fernando, Rev. Fr. Praveen Mahesan. Ms. Jeyakumari's daughter was one of the children that had welcomed the UN High Commissioner for Human Rights for an event in Colombo on the international day against disappearances in 2013. Her son had disappeared after surrendering to the Army in 2009 and she had been an active campaigner against disappearances. Ruki Fernando, had travelled to Geneva for lobbying in relation to the UN resolution in December 2013 and February 2014, and had been cooperating extensively with UN human rights mechanisms, meeting UN officials in Geneva and Colombo, making regular submissions and complaints to UN bodies and participating in sessions of the UN Human Rights Council. After his release from detention and before a gag order, he told media that "I was repeatedly asked who in Geneva, who outside Sri Lanka was I sharing information with? It seemed very clear they took great care for other nations not to hear any alternative information or perspectives from within Sri Lanka". <http://edition.cnn.com/2014/03/19/world/asia/sri-lanka-ruki-fernando-arrest/>, last accessed 14th Feb. 2015). Ruki also said that the "government is particularly clear that no information should be provided to the UN Human Rights Council currently in session in Geneva" (<http://njviehland.wordpress.com/2014/03/22/ruki-fernando-is-out-of-detention-but-hes-not-free/> last accessed 14th Feb. 2015).

⁸ Ms. Jeyakumari remains detained as of 16th Feb.

⁹ <https://hrdc.files.wordpress.com/2014/08/reprisals-against-those-cooperating-with-the-un-inform-30may2014.pdf> (Last accessed 13th Feb. 2015)

¹⁰ According to the High Commissioner, "Sri Lanka propagandists had for many years described me as a tool of the LTTE, calling her the "Tamil Tigress in the UN". This was she said "not only wildly incorrect" but "deeply offensive" suggesting that such

Kilinochchi for distributing witness forms intended to assist the UN investigation.¹¹ In November, a man who had allegedly encouraged Tamils to submit information to the UN was killed.¹² The government also threatened to take appropriate action against those who give evidence to the UN investigation through skype.¹³

2. Reprisals and challenges in engaging with international community

In September 2014, the Deputy British High Commissioner in Sri Lanka reported that she was followed during a field visit and that persons who met her had been questioned.¹⁴ Earlier that month, a Tamil family in the North visited by the British High Commissioner had been threatened by the military.¹⁵ In January, the US Embassy in Colombo claimed that visa was refused for a visit by the USA's Ambassador at large for Women's issues.¹⁶ In September 2014, the Defence Ministry compelled an Australian University to disinvite two prominent Sri Lankan HRDs from an international conference on torture in Thailand.¹⁷ In August, a foreign academic – activist who had come for an academic conference was detained and interrogated, and persons he met were also interrogated and intimidated.¹⁸

3. Reprisals against anti-disappearances campaigners¹⁹

In August 2014, a mob led by Buddhist Monks forcefully dispersed a meeting of Tamil families of the disappeared, accusing them of being terrorist supporters, intent on discrediting the Government by supporting an international war crimes inquiry.²⁰ The following day, the mob held a press conference, making false allegations against the anti-disappearance activists.²¹ In November 2014, Ms. Mauri Jayasinghe, was abducted after receiving death threats, due to her campaign to find her disappeared husband.²² Those protesting against disappearances were reportedly threatened by the military. Families of disappeared persons were prevented from attending religious observances and were also obstructed and intimidated before and after they appeared before a Presidential Commission of Inquiry.²³ On 30th August 2014, the International Day of the Disappeared, the Police tried to block families of disappeared persons when they were holding a peaceful protest.²⁴

4. Freedom of Expression

abuse had "reached an extraordinary crescendo with at least three Government Ministers joining in" (See <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13673>, last accessed 10th Feb 2015)

¹² <http://www.colombomirror.com/?p=715> (Last accessed 12th Feb 2015)

¹³ <http://www.tamilguardian.com/article.asp?articleid=12834> (Last accessed 13th Feb 2015)

¹⁴ http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=106183 (Last accessed 13th Feb 2015)

¹⁵ <http://blogs.fco.gov.uk/auradavies/2014/09/30/looking-over-my-shoulder/> (Last accessed 13th Feb 2015)

¹⁶ <http://tamilguardian.com/print.asp?articleid=12073> (Last accessed 13th Feb 2015)

¹⁷ <http://www.sundaytimes.lk/140209/news/us-envoys-visit-us-embassy-rejects-eam-statement-85098.html> (Last accessed 13th Feb 2015)

¹⁸ <http://www.smh.com.au/world/academic-tells-conference-delegates-not-to-upset-sri-lanka-over-human-rights-20140912-10fzdz.html> (Last accessed 13th Feb 2015)

¹⁹ <https://ihrdc.files.wordpress.com/2014/09/repression-of-dissent-in-sri-lanka-august-2014-english-26sep2014.pdf> (Last accessed 13th Feb 2015)

²⁰ For detailed submission on the topic, see <https://ihrdc.files.wordpress.com/2014/08/written-statement-submitted-by-the-asian-forum-for-human-rights-and-development-a-non-governmental-organization-in-special-consultative-status.pdf> (Last accessed 10th Feb 2015)

²¹ <http://groundviews.org/2014/08/07/mob-disrupts-meeting-of-families-of-disappeared-police-government-hound-participants/> (Last accessed 10th Feb 2015)

²² <http://groundviews.org/2014/08/07/mob-disrupts-meeting-of-families-of-disappeared-police-government-hound-participants/> (Last accessed 12th Feb 2015)

²³ She was reportedly told "you talk too much. It is up to you to decide whether you want to live or die ...stop looking for your husband" (<http://sri.lankabrief.org/2014/11/mother-twins-wife-disappeared-abducted-threatened-abused-fighting-justice/#more-20985>, Last accessed 12th Feb 2015)

²⁴ <https://ihrdc.files.wordpress.com/2014/08/written-statement-submitted-by-the-asian-forum-for-human-rights-and-development-a-non-governmental-organization-in-special-consultative-status.pdf> (Last accessed 10th Feb 2015) and <http://tamilnet.com/art.html?catid=13&artid=37339> (Last accessed 13th Feb 2015)

²⁵ <http://tamilnet.com/art.html?catid=13&artid=37363> (Last accessed 13th Feb 2015)

Journalists were prevented from reporting on court cases heard in open courts.²⁵ Sinhalese Editors in Colombo and Tamil journalists in North were subjected to interrogation by authorities.²⁶ A film screening in the North was disrupted²⁷ and author of a Tamil poetry book about wartime experiences was also interrogated.²⁸ Media training to Tamil journalists had to be abandoned as facilitators and participants and their families were threatened.²⁹ The Convener of the Free Media Movement³⁰ and number of other journalists were threatened,³¹ subjected to physical assaults³² and

²⁵ In May and August, the Free Media Movement (FMM) reported that a ban had been imposed on any media coverage of the defamation case between the President's brother Mr. Gotabaya Rajapaksa and the Sunday Leader newspaper regarding the controversial deals made by the Ministry of Defence in 2007 (<http://srilankabrief.blogspot.ch/2014/05/sri-lanka-security-forces-should.html#more>, last accessed 10th Feb. 2015) and <https://www.colombotelegraph.com/index.php/press-barred-again-from-covering-gotabayas-cross-examination-in-court/>, last accessed 10th Feb. 2015). Journalists were also evicted from a Court and ordered not to report on the case of an alleged rape of two young Tamil girls by Navy personnel (<http://www.tamilguardian.com/article.asp?articleid=11637>, last accessed 10th Feb. 2015).

²⁶ Mr. Saman Wagaarchchi, Chief Editor of the Lakkima newspaper was summoned to Court regarding the publication of a satirical photograph depicting the then President's sister in law and shortly after, his sub editor was dismissed in April 2014 (<http://www.ftlk/2014/04/26/lawyers-for-democracy-condemn-the-harassment-of-lakkima-editor/>, last accessed 10th Feb. 2015). Mr. K. W. Janaranjana, the Editor of Ravaya newspaper was questioned about an election related report in November (http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=115676, last accessed 13th Feb. 2015). Al Jazeera online journalist Dinouk Colombage was also reported to have been questioned for four hours by authorities over his reporting during the Aluthgama riots (<http://lankanewsweb.net/news/8130-cid-quizzes-al-jazeera-journalist>, last accessed 13th Feb. 2015). In the North, journalist Mr S.R. Lambart from Mannaar was reported to have been interrogated by the TID (<http://www.tamilnet.com/art.html?catid=13&artid=37303>, last accessed 10th Feb. 2015) and the Convener of the Jaffna Press Club was also interrogated by authorities (<https://ihrcd.files.wordpress.com/2014/09/repression-of-dissent-in-sri-lanka-august-2014-english-26sep2014.pdf>, last accessed 13th Feb. 2015). A film maker refused to respond to summons on him by a "Religious Police Unit" and about his right to freedom of expression being violated (<http://srilankabrief.org/2014/07/religious-police-hunting-a-film-maker/>). A provincial journalist was also summoned to courts due to his investigative reporting in February (<http://www.globaltamilnews.net/MobileArticle/tabid/81/language/si-LK/Default.aspx?pn=home&aid=103608>, last accessed 13th Feb. 2015).

²⁷ http://www.bbc.co.uk/sinhala/sri_lanka/2014/07/140728_lanka_ramanan_film.shtml (last accessed 10th Feb. 2015).

²⁸ <http://www.jdsilanka.org/index.php/news-features/human-rights/475-sri-lankas-anti-terror-squad-grills-priest-school-teachers-over-tamil-poetry-book> (last accessed 10th Feb. 2015).

²⁹ One workshop in May organized by Transparency International Sri Lanka (TISL) was cancelled by the Ministry of Defence, despite it being a workshop on recommendations of the Lessons Learnt and Reconciliation Committee. In June, it was again cancelled after disruption by protesters accusing the organisation of supporting terrorists led to the police asking the participants to leave. After leaving the vicinity and checking into a nearby hotel in Colombo the party were then told to leave immediately or else they would be removed by those who ordered that they leave (<http://www.tisrilanka.org/?p=11979>, last accessed 10th Feb. 2015). In July, training at the Sri Lanka Press Institute (SLPI) by Rights Now Collective for Democracy and the Jaffna Press Club on digital security had to be cancelled after threats were made to storm the institution (<http://srilankabrief.org/2014/07/sabotage-of-media-workshop-and-death-threats-are-govt-orchestrated-slwa/#more-19122>, last accessed 10th Feb. 2015) and in October organisers of an awards ceremony held by TISL received death threats from a group calling themselves Patriotic Force (<http://srilankabrief.org/2014/10/fmm-challenges-the-government-to-bring-culprits-to-book/#more-20709>, last accessed 10th Feb. 2015). Staff members and more than 50% of the invited participants also received threatening SMS messages, forcing them to move to another venue. Those who stayed behind reported seeing people in plain clothes observing the venue, taking photographs, asking questions to staff and driving past throwing threatening messages towards the door (<http://www.tisrilanka.org/?p=12277>, last accessed 10th Feb. 2015). In the first quarter of the year, a journalists training in Polonnaruwa was compelled to be cancelled by a mob led by Buddhist Monks (<https://ihrcd.files.wordpress.com/2014/08/repression-of-dissent-in-sri-lanka-jan-march2014-english.pdf>, last accessed 13th Feb. 2015).

³⁰ <http://www.frontlinedefenders.org/node/26753> (last accessed 13th Feb. 2015).

³¹ Such as Jaffna based journalist Mr. Navarathinam Kapilanath (<http://www.tamilguardian.com/print.asp?articleid=11724>, last accessed 13th Feb. 2015) and a group of Tamil journalists who were investigating Navy surveillance of Tamil land earmarked for Government development (<http://www.tamilguardian.com/article.asp?articleid=11529>, last accessed 10th Feb. 2015). A Mannar based journalist was also threatened with death in April (<https://ihrcd.files.wordpress.com/2014/08/repression-of-dissent-in-sri-lanka-april-2014-english.pdf>, last accessed 13th Feb. 2015). In June, journalists covering ethnic riots against Muslims were attacked, threatened with death and were subjected to online threats being called "social media and twitter murders" by editor of a State run Daily News newspaper (<https://ihrcd.files.wordpress.com/2014/08/repression-of-dissent-in-sri-lanka-june-2014-english.pdf>, last accessed 13th Feb. 2015).

restricted from accessing certain parts of the country.³³ Foreign journalist's requests for visas were delayed and resulted in the prevention of international witnesses to the situation in Sri Lanka.³⁴

5. Freedom of Assembly

Peaceful protests and events organized by students, trade unions and NGOs were attacked and some were prevented from being held in certain parts of the country.³⁵ Tamil communities were obstructed and prohibited from organizing

³² Mr Sivagnanam Selvatheepan suffered serious injury after being attacked on his motorbike (<http://colombogazette.com/2014/04/15/tamil-journalist-attacked-in-jaffna/>, last accessed 12th Feb. 2015) and correspondent of the Jaffna Daily 'Uthyan' Mr Sinnarasa Siventhiran survived an attempt on his life by two men who he says identified themselves as members of the Criminal Investigation Division (<http://tamilnet.com/art.html?catid=13&artid=37389>, last accessed 10th Feb. 2015). A provincial correspondent of "Sirasa TV" was injured during an attempted abduction (<http://newsfirst.lk/english/2014/05/newsfirst-correspondent-attempted-rescue-elephant-calf-attacked/33442>, last accessed 13th Feb. 2015). Two journalists were also assaulted when they tried to cover baby elephants being kept illegally (<http://www.divaina.com/2014/07/19/news25.html>, in Sinhalese, last accessed 13th Feb. 2015) and two more journalists were attacked after Provincial Council elections in September (<http://sri.lankabrief.org/2014/09/sri-lanka-journalists-assaulted-in-north-and-south/#more-20280>, last accessed 13th Feb. 2015).

³³ <https://www.youtube.com/watch?v=rqOOIjvig#t=163> (In Sinhalese, last accessed 13th Feb. 2015).

³⁴ BBC correspondent in Sri Lanka's request for extension of his visa was reported as having been refused (<http://colombogazette.com/2014/04/19/bbc-correspondent-refused-a-visa/>, last accessed 13th Feb. 2015) and a request for visa by a New York Times journalist was also delayed (<http://www.thesundayleader.lk/2014/08/24/visa-on-hold-for-us-journo/>, last accessed 13th Feb. 2015).

³⁵ In March, a booking at the well known convention center in Colombo made by the Bar Association of Sri Lanka was cancelled (<http://www.sundaytimes.lk/140309/news/vesting-of-police-powers-in-the-armed-forces-bmich-cancels-basis-booking-for-a-forum-88460.html>, last accessed 13th Feb. 2015). Two civil society seminars were disrupted in Anuradhapura and Trincomalee districts in September (<https://ihrc.files.wordpress.com/2014/08/repression-of-dissent-in-sri-lanka-sept-2014-english-23oct2014.pdf>, last accessed 13th Feb. 2015). In the first quarter of the year, a peaceful protest in commemoration of assassinated activist Mr Anthony Fernando was met by personnel carrying iron rods (<http://www.vikalpa.org/?p=19683>, in Sinhalese, last accessed 10th Feb. 2015) and the drama group the Society of Socialist Art were attacked on the street leaving nine people hospitalised. (http://www.lankatruth.com/home/index.php?option=com_content&view=article&id=6602-govt-thugs-attack-street-drama-troupe-&catid=36-top-stories&Itemid=124, last accessed 10th Feb. 2015). In May, protesting student activists were assaulted (<http://www.sundaytimes.lk/140518/news/ahs-undergraduate-activists-assaulted-in-police-custody-and-hospitalised-99597.html>, last accessed 13th Feb. 2015) while in August, villagers protesting against water pollution in Colombo district were assaulted, arrested and tear-gassed (<https://ihrc.files.wordpress.com/2014/08/repression-of-dissent-in-sri-lanka-jan-march-2014-english.pdf>, last accessed 10th Feb. 2015). In May, Trade Union leaders reported that they were prevented from holding their May Day rally in Hyde Park Colombo (<http://www.srilankannursing.net/May%20day%202014.html>, in Sinhalese, last accessed 13th Feb. 2015). Trade Union meetings were also disrupted by pro-government groups and participants assaulted (<http://www.hirunews.lk/90491/tense-situation-at-government-press>, last accessed 13th Feb. 2015). In May, delegates to the World Conference on Youth in Colombo were also not allowed to hold a press conference (<http://www.ceylontoday.lk/51-63517-news-detail-african-delegates-protest-at-bmich.html>, last accessed 13th Feb. 2015). In July and again in September, protests on displacement in Jaffna was not allowed to be held by the Police (<http://www.lankasrinews.com/view.php?22AOlv2acT5YAe4e4yMCc02aAmB3dd3PBmc30366AY2e4UY5f0ca21Oed3> and <http://www.tamilguardian.com/article.asp?articleid=12108> last accessed 13th Feb. 2015) and in September, Police revoked permission already granted to have a peace march in Jaffna, in connection with 25th commemoration of a well known woman HRD and academic in Jaffna, who was killed by the LTTE (<http://www.thehindu.com/news/international/south-asia/revisiting-a-tamil-democrats-legacy/article6436119.ece>, last accessed 13th Feb. 2015). The Executive Director of the National Peace Council reported that 4 of their events on reconciliation were subjected to surveillance by the military and Police (http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=109117, last accessed 13th Feb. 2015). In October the General Secretary of the Free Trade Zone and General Employees Services Union (FTZ & GESU) complained to the Inspector General of Police that Union leaders were being assaulted and systematically suppressed (<https://www.gov.uk/government/publications/sri-lanka-country-of-concern/sri-lanka-country-of-concern-latest-update-31-december-2014>, last accessed 12th Feb. 2015). That month an injunction was ordered against striking Railway Professional Trade Union Alliance (http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=111850 , last accessed 12th Feb. 2015) and 300 fisherfolk had stones thrown at them as they protested outside the Fisheries and Aquatic Resources Ministry, leaving three in hospital (<http://www.ceylontoday.lk/51-75961-news-detail-fishers-protesting-eu-ban-pelted-with-stones.html>, last accessed 10th Feb. 2015). In what is commonly known as "Black July", due to the anti-Tamil riots in 1983, police interrupted a banner-signing campaign held in Colombo, run by the Movement for Equal Rights (MER), removing the banner and arrested some of the participants.

and participating in events to remember those who had been killed during the war.³⁶ The Prevention of Terrorism Act (PTA) and threat of prosecution under its draconian provisions is a fear that looms large on any assembly.

6. Freedom of Association

In May 2014, there were reports of government proposals to monitor local NGOs fundraising activities³⁷ and orders were made by the Ministry of Defence to freeze assets of overseas Tamil organisations.³⁸ In July 2014, NGOs received an order from the NGO Secretariat banning them from holding press conferences, issuing press releases and organizing trainings for journalists³⁹. The former Prime Minister accused some NGOs of arming and assisting the LTTE during the war and branding NGOs as a threat to national security.⁴⁰ Soon after, NGOs were given a Notice by the Finance and Planning Ministry ordering that they seek prior approval before obtaining foreign funds.⁴¹ The former President spoke of new laws to monitor and control NGOs in April 2014⁴² and the Ministry of Defence was reportedly drafting new laws to monitor and control activities of NGOs in August 2014.⁴³ USAID was compelled to withdraw funding for voter education programs, following threats by the Ministry of Defence to investigate potential recipients of such funds.⁴⁴ Dissolving student unions also continued in 2014.⁴⁵

7. Repression of Student activists and Academics

In May 2014, the Jaffna University was closed without warning⁴⁶ and teachers and students reported receiving death threats and being accused of terrorism after trying to pay their respects to the dead on the 5th anniversary of the end of the war.⁴⁷ In November, Jaffna University Teachers Association (JUTA) President, Dr A. Rasakumaran was questioned

(http://www.lankaviews.com/en/index.php?option=com_content&view=article&id=11771:equal-rights-awareness-campaign-disrupted-by-police&catid=35:local&Itemid=48 (last accessed 10th Feb 2015). Protesting political prisoner's families were warned that they could only see protesters bodies (<http://srilankabrief.org/2014/08/parents-told-to-wait-to-see-the-dead-bodies-of-3-tamil-prisoners/#more-19696>, last accessed 13th Feb 2015).

³⁶ During the 5th anniversary of the end of the war strict orders banning public commemorations were imposed (<http://www.adaderana.lk/news/war-remembrance-service-a-threat-to-harmony-police->, last accessed 10/2/15). There were reports of Tamil families being intimidated when visiting their local temple (<https://www.youtube.com/watch?v=x0iqbamHavc>, last accessed 10th Feb 2015). The offices of the Tamil National People's Front (TNPF) and the Tamil National Alliance (TNA) were blocked and Government forces were filmed destroying floral tributes (<http://www.tamilnet.com/art.html?catid=13&artid=37215>, last accessed 10th Feb 2015). Organizers of a religious event to remember those killed was questioned and intimidated (<http://www.asianews.it/news-en/In-the-north,-Tamils-defy-government-to-remember-Fr-Sara,-who-died-during-the-Civil-War-31197.html>, last accessed 13th Feb 2015). In September, two events to remember civilians killed during the war were prevented by the Police (<http://tamilnet.com/art.html?catid=13&artid=37392> and <http://tamilnet.com/art.html?catid=13&artid=37375>, last accessed 13th Feb 2015).

³⁷ <http://www.ceylontoday.lk/52-62465-news-detail-new-laws-against-ngos-should-not-be-a-witch-hunt.html> (last accessed 10th Feb 2015)

³⁸ Human Rights Watch described this as being "aimed at restricting peaceful activism" (<http://www.hrw.org/news/2014/04/07/sri-lanka-asset-freeze-threatens-peaceful-dissent>, last accessed 10th Feb 2015)

³⁹ <http://srilankabrief.org/2014/07/sri-lanka-bans-ngos-engaging-in-public-communications-and-conducting-training/> (last accessed 10th Feb 2015)

⁴⁰ <http://colombogazette.com/2014/07/11/some-ngos-armed-the-ltte-says-pm/> (last accessed 10th Feb 2015). This move was met with enthusiastic support from state run media who accused NGOs of fanning the flames of Tamil rebellion and undermining the countries stability (http://www.sundayobserver.lk/2014/07/13/main_Editorial.asp, last accessed 10th Feb 2015)

⁴¹ As a result of this, the United States Agency for International Development (USAID) took the decision to cancel funding for a voter education program after the Sri Lankan Government raised objections <http://www.ft.lk/2014/07/05/us-axes-lankan-voter-education-funding-amid-controversy/> (last accessed 10th Feb 2015)

⁴² <http://www.ceylontoday.lk/52-62465-news-detail-new-laws-against-ngos-should-not-be-a-witch-hunt.html> (Last accessed 13th Feb 2015)

⁴³ <http://www.sundaytimes.lk/140831/news/after-ngos-foundations-to-come-under-watch-115994.html> (last accessed 13th Feb 2015)

⁴⁴ <http://www.ft.lk/2014/07/05/us-axes-lankan-voter-education-funding-amid-controversy/> (Last accessed on 13th Feb 2015)

⁴⁵ <http://www.dailymirror.lk/news/49222-rajarata-uni-student-unions-dissolved.html> (Last accessed 13th Feb 2015)

⁴⁶ <https://ihrdc.files.wordpress.com/2014/08/repression-of-dissent-in-sri-lanka-may-2014-english.pdf> (last accessed 10th Feb 2015)

⁴⁷ <http://www.tamilguardian.com/article.asp?articleid=10974> (last accessed 10th Feb 2015)

by police for his involvement in a remembrance event⁴⁸ and posters carrying death threats against Dr A. Rasakumaran and four students appeared.⁴⁹ The University was again closed from 26th of November to 1st of December 2014, with reports that several hundreds of heavily armed military personnel had taken control of both entrances and asked students to leave.⁵⁰

Student activists were arrested,⁵¹ faced suspensions, bans on entering university premises and disciplinary hearings.⁵² Student protests were attacked and disrupted⁵³ and the Police had surrounded a University searching for student activists.⁵⁴ A court had reportedly warned a female student activist not to participate in political activities because of her gender. Another court told two students charged for obstructing the Police that their necks should be broken, despite reports that the students had been arrested and beaten by the Police.⁵⁵ Student activists were discredited as 'fools, lunatics, foxes' by the Minister of Higher Education.⁵⁶ Several Sinhalese Academics had also received death threats.⁵⁷

8. Attacks and threats to lawyers, religious leaders, community based activists, opposition politicians

The President of the Bar Association was subjected to surveillance and followed in a threatening manner⁵⁸ and two human rights lawyers received death threats in September.⁵⁹ Venerable Vijitha Thero, a Buddhist Monk and minority rights campaigner was subjected to repeated threats, intimidation and attacks by Bodu Bala Sena (BBS), an extremist Buddhist group, throughout the first half of the year.⁶⁰ The BBS had also accused the Catholic Bishop of Mannar,

⁴⁸ <http://www.sundaytimes.lk/140525/news/juta-president-dr-rasakumaran-decries-tid-questioning-for-organising-commemoration-ceremony-100254.html> (last accessed 10th Feb. 2015)

⁴⁹ The posters stated "These people are reviving the LTTE. We will kill them. We will not allow Heroes' Week commemorations" <http://www.colombomirror.com/?p=1256> (last Accessed 12th Feb. 2015)

⁵⁰ Such incidents were reported in August (<https://ihrdc.files.wordpress.com/2014/09/repression-of-dissent-in-sri-lanka-august-2014-english-26sep2014.pdf>, last accessed 13th Feb. 2015) and June (<http://www.dailymirror.lk/news/48838-bandaras-arrest-part-of-witch-hunt-iust.html>, last accessed 10th Feb. 2015)

⁵¹ <https://ihrdc.files.wordpress.com/2014/08/repression-of-dissent-in-sri-lanka-june-2014-english.pdf> (Last accessed on 13th Feb. 2015)

⁵² http://www.lankatruth.com/home/index.php?option=com_content&view=article&id=7851-banner-for-education-causes-namals-thugs-to-stampede-&catid=42-smartphones&Itemid=74 (Last accessed 13th Feb. 2015), <https://www.colombotelegraph.com/index.php/bar-association-condemns-police-inaction-during-ruhuna-university-attack/> (Last accessed 13th Feb. 2015). In June and July, a protest site was subjected to arson attack twice <http://www.hirunews.lk/87125/rajarata-uni-students-sathyagraha-hut-burnt-for-third-time>, last accessed 13th Feb. 2015)

⁵³ http://www.lankaviews.com/en/index.php?option=com_content&view=article&id=11835-police-surround-buddhist-and-pali-university-search-for-iust-representatives&catid=150-lead-news&Itemid=113 (Last accessed 13th Feb. 2015)

⁵⁴ "Monthly update on repression of students in Sri Lanka" – June edition, by "Students for Human Rights" cited at: <https://ihrdc.files.wordpress.com/2014/09/repression-of-dissent-in-sri-lanka-august-2014-english-26sep2014.pdf> (last accessed 10th Feb. 2015)

⁵⁵ <http://newsfirst.lk/english/2014/06/allied-healthscience-students-issue-will-provide-answers-foxes-s-b-dissanayake/38708> (In Sinhalese with some English translation, last accessed on 13th Feb. 2015)

⁵⁶ In June, Dr. Nirmal Ranjith a vocal critic of the Government and former President of Federation of University Teachers' Associations (FUTA) reported that he and his family had received death threats (http://www.lankatruth.com/home/index.php?option=com_content&view=article&id=7119-death-threats-to-dr-nirmal-ranjith-devasiri-&catid=42-smartphones&Itemid=74, last accessed 10th Feb. 2015). The Government was also accused of being behind death threats against lecturers of the University of Ruhuna, which was said to be in response to the support given to students who had themselves been subjected to attacks after protesting against a Government exhibition earlier that month (<https://www.srilankamirror.com/news/15324-death-threats-to-ruhuna-university-lecturers>, last accessed 10th Feb. 2015).

⁵⁷ He has been a vocal critique of the government and prominent advocate of Rule of Law and independence of the judiciary. <http://srilankabrief.org/2014/07/lawyers-collective-condemns-move-to-intimidate-the-president-of-the-basl-and-calls-for-an-impartial-investigation/> and http://srilankabrief.blogspot.ro/2014/07/sri-lanka-unidentified-motorcyclists_20.html#more (Last accessed 13th Feb. 2015)

⁵⁸ <http://www.ft.lk/2014/09/16/lawyers-collective-condemns-death-threats-to-attorneys/> (Last accessed 13th Feb. 2015)

⁵⁹ In June, after police protection was removed without explanation, he was found naked on the roadside, his hands bound behind him suffering from serious injuries (<http://groundviews.org/2014/06/20/did-the-bbs-attack-vijitha-thero-again/>, last accessed 13th Feb. 2015). The police claimed that the injuries were self-inflicted and the Court twice refused him bail, despite him stating that

another prominent human rights defender, of supporting the LTTE⁶¹ and condemned the Pope's visit to Sri Lanka due to fears that the Pope may raise concerns about the country's human rights record.⁶² The Mannar Bishop was also stopped from visiting Tamil political prisoners in April 2014.⁶³ Rev. Fr. Sathivel, an Anglican Priest active in the human rights field for decades, was subjected to threats and intimidation in August 2014.⁶⁴ In July 2014, media reported that the Criminal Investigation Department (CID) of the Police had called neighbours of government critique and senior literary figure Gamini Viyangoda to inquire about him.⁶⁵ Restrictions were imposed on an exiled activist visiting Sri Lanka for the funeral of his mother.⁶⁶ A community based activist fighting against evictions was abducted in February 2014.⁶⁷ Three residents in the Ampara district had complained to the Human Rights Commission of Sri Lanka that that Army was harassing them for filing a fundamental rights petitions in the Supreme Court challenging the Army's attempts to remove them from their land.⁶⁸ Opposition politicians also faced threats and attacks when they tried to engage in fact finding missions and other activities critical of the government.⁶⁹ Tamil politicians were subjected to arrest, threats and intimidation.⁷⁰ The Secretary to the Ministry of Defence also stated publicly that the Ilankai Tamil Arasu Kadchi (ITAK), a major Tamil political party, should be neutralized, saying that they have separatist tendencies.⁷¹

he had been abducted and beaten (<http://groundviews.org/2014/06/20/did-the-bbs-attack-vijitha-thero-again/>, last accessed 13th Feb. 2015)

⁶¹ http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=102041 (last accessed 12th Feb. 2015)

⁶² <http://vaticaninsider.lastampa.it/en/world-news/detail/articolo/sri-lanka-sri-lanka-sri-lanka-35681/> (last accessed 12th Feb. 2015)

⁶³ <https://ihrdc.files.wordpress.com/2014/08/repression-of-dissent-in-sri-lanka-april-2014-english.pdf> (Last accessed 13th Feb. 2015)

⁶⁴ <https://ihrdc.files.wordpress.com/2014/09/repression-of-dissent-in-sri-lanka-august-2014-english-26sep2014.pdf> (Last accessed 13th Feb. 2015)

⁶⁵ <https://ihrdc.files.wordpress.com/2014/08/repression-of-dissent-in-sri-lanka-july-2014-english-07sep2014.pdf> (Last accessed 13th Feb. 2015)

⁶⁶ <https://ihrdc.files.wordpress.com/2014/08/repression-of-dissent-in-sri-lanka-july-2014-english-07sep2014.pdf> (Last accessed 13th Feb. 2015)

⁶⁷ http://www.lankatruth.com/home/sinhala/index.php?option=com_content&view=article&id=9828:2014-02-22-14-58-11&catid=36:2011-10-17-04-27-38&Itemid=72 (In Sinhalese, last accessed 13th Feb. 2015)

⁶⁸ <http://www.thesundayleader.lk/2014/03/09/ashraff-nagar-residents-seek-hrc-solution/> (Last accessed 13th Feb. 2015)

⁶⁹ For example, then Opposition MP was attacked when tried to visit an area where there were riots against Muslims (<http://www.lankasrinews.com/view.php?22qKH303dOK4e2HqGcb2a1Jdd3I75bc3qD8e43V20235Co3>, last accessed 13th Feb. 2015). A fact finding mission attacked in April (<https://ihrdc.files.wordpress.com/2014/08/repression-of-dissent-in-sri-lanka-april-2014-english.pdf>, last accessed 13th Feb. 2015) and another one prevented in July (<http://www.asianmirror.lk/news/item/2074-unp-mps-prevented-from-entering-sapugaskanda-refinery/2074-unp-mps-prevented-from-entering-sapugaskanda-refinery>, last accessed 13th Feb. 2015). A peace march was also stopped in July (<http://srilankabrief.org/2014/07/an-injury-to-one-is-an-injury-to-all-lets-fight-the-racism-communalism/#more-19212>, last accessed 13th Feb. 2015)

⁷⁰ For example, see <https://ihrdc.files.wordpress.com/2014/09/repression-of-dissent-in-sri-lanka-august-2014-english-26sep2014.pdf> (Last accessed 13th Feb. 2015)

⁷¹ http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=110143 (Last accessed 13th Feb. 2015)



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Universal Periodic Review

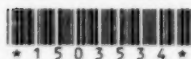
Written statement^{*} submitted by the Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

^{*} This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-03534 (E)



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Gross violations of international human rights and humanitarian law in Iraq

1 Introduction

Human Rights Now(HRN), a Tokyo based international NGO, is gravely concerned over the devastating human rights situation in Iraq in 2014. According to UNAMI, a minimum of 35,408 civilian casualties in total (12,282 killed and 23,126 injured) were recorded for 2014.

UNAMI also recorded 790 civilian killed and 1469 were injured in January 2015, including 49 killed and 375 injured in Ramadi and 146 killed and 209 injured in Fallujah.¹

HRN is gravely concerned about reports of serious violations of international humanitarian and human rights law by the terrorist group Islamic State in Iraq and the Levant (ISIL). Also, we must underscore grave human rights violations by Iraqi Security Forces and affiliated groups.

While the Iraq government bears responsibility for human rights abuses in Iraq, we also note the root causes from serious violations by the Iraqi government, US and its allies during and since the 2003 war.

The lack of rule of law and a culture of impunity have contributed to an endless chain of retaliations in Iraq. Given this devastating situation, we decry the impact the humanitarian crisis is having on the fundamental human rights of Iraq's people.

2. Gross violations of international human rights and humanitarian law

(1) Violation committed by ISIL

ISIL, a self-declared caliphate since mid-2014 with territory stretching from North Syria to Central Iraq, is led by Abu Bakr al-Baghdadi and responsible for the most serious violations of human rights in Iraq.² Two United Nations reports detail ISIL's horrific acts of terror, particularly against Christians, Shias, Kurds and other ethnic minorities. In Syria, public executions, punishments, and displays of mutilated bodies are used by ISIL to control civilians.³

In Iraq, the UN reported "a staggering array of gross human rights abuses and acts of violence of an increasingly sectarian nature were committed by ISIL," including executions and targeted killings of civilians, abductions, rape and other forms of violence or sexual assault against women and children, forced recruitment of children, ethnic cleansing of religious and ethnic communities, and other crimes against humanity.⁴

(2) Violations committed by Iraq's government and ISF

HRN denounces widespread and systematic human rights violations committed by the Iraq government in 2014.

HRN expressed alarm about indiscriminate civilian attacks in Anbar in early 2014, with estimates of 370 civilian casualties in Ramadi and Fallujah by January 11, 2014.⁵

¹http://www.uniraq.org/index.php?option=com_k2&view=item&id=3245:un-casualty-figures-for-january-2015&Itemid=633&lang=en

²<http://www.theatlantic.com/international/archive/2014/08/the-many-ways-to-map-the-islamic-state/379196/>

³http://www.un.org/apps/news/story.asp?NewsID=49338#_VNGJBYHXerU

⁴ http://www.un.org/apps/news/story.asp?NewsID=48980#_VNGJHYHXerU

⁵ Iraq: Call for an Immediate Stop to Indiscriminate Attacks in Anbar Province That Have Resulted in Civilian Casualties and Thousands of IDPs." *Human Rights Now Global Site*. Human Rights Now, 22 Jan. 2014. Web. 9 Feb.

In response to an alleged anti-government attack on 1 January 2014, the Iraq government deployed Security Forces to Ramadi and Fallujah and conducted indiscriminate attacks by heavy mortar fire in populated residential areas without protective measures for civilians. Despite UN warnings, such attacks continued over month, causing significant civilian deaths and internal displacement.

During the Anbar attack, Iraq Security Forces targeted civilian hospitals such as Fallujah General Hospital, killing doctors, aid workers and the wounded. Such brutal and illegal operations incited a chain of retaliations among affected communities.

Even after ISIL's emergence, the Iraq government targeted Sunni populations systematically. Reports of Iraqi governmental abuse proliferated, furthering Iraq's sectarian divide and unintentionally bolstering ISIL. For example, twenty corpses found in Jorf al-Sakhar showed signs of torture and were identified as part of a group of 35 arrested by government forces in Khezz district three days before.⁶ Other reports of abuses by Maliki's regime include a hospital and school bombardment in al-Hawija, military shelling of 19 civilians in Fallujah, use of military warplanes in multiple cities, and significant violence against civilians.⁷

Shia-majority Iraqi forces also reportedly executed over 255 Sunni prisoners in July 2014.⁸ Mass executions appeared to be occurring in six towns according to eyewitness interviews, and a foreign media source released a video of piles of dead Sunni prisoners.⁹

(3) Violence against Sunni Muslims

HRN is alarmed by the grave situation of Shiite militiamen supporting Iraqi security forces committing widespread and systematic retaliatory attacks against Sunni populations.

In January 2015, at least 72 unarmed Sunni Muslims in Barwanah, Diyala province, were allegedly killed by such forces.¹⁰

In February 2015, a moderate Sunni tribal leader, Sheikh Qasim Sweidan Al-Janabi, and associates were allegedly assassinated by Shiite assailants.¹¹

These incidents are only the tip of the iceberg. Shiite military attacks, killings and torture, sometimes linked with the ISF, against Sunnis are widespread in Sunni-majority regions.¹²

2015. <http://hrn.or.jp/eng/news/2014/01/22/iraq-call-for-an-immediate-stop-to-indiscriminate-attacks-in-anbar-province-that-have-resulted-in-civilian-casualties-and-thousands-of-idps/>

⁶Stevenson, Struan. "Iraq Prime Minister Maliki Continues Massacre of Innocent Civilians in His Last Days in Power." *Global Research*. Global Research.ca, 11 Sept. 2014. Web. 9 Feb. 2015. <http://www.globalresearch.ca/iraq-prime-minister-maliki-continues-massacre-of-innocent-civilians-in-his-last-days-in-power/5401079>

⁷ Ibid.

⁸ "Iraq Campaign of Mass Murders of Sunni Prisoners." *News*. Human Rights Watch, 11 July 2014. Web. 9 Feb. 2015. <<http://m.hrw.org/news/2014/07/11/iraq-campaign-mass-murders-sunni-prisoners>>.

⁹<http://www.bbc.com/news/world-middle-east-28274742>; Iraq: Campaign of Mass Murders of Sunni Prisoners." *News*. Human Rights Watch, 11 July 2014. Web. 9 Feb. 2015.

<http://www.hrw.org/news/2014/07/11/iraq-campaign-mass-murders-sunni-prisoners>;

<http://edition.cnn.com/video/data/2.0/video/world/2014/06/28/nr-intvw-damon-iraq.cnn.html>

¹⁰http://www.nytimes.com/2015/01/30/world/middleeast/government-allies-are-said-to-have-killed-dozens-of-sunnis-in-iraq.html?_r=0

<http://uk.reuters.com/article/2015/01/29/uk-mideast-crisis-iraq-killings-idUKKBN0L20GC20150129>

<https://www.facebook.com/video.php?v=10204864822354461>

¹¹<http://news.yahoo.com/iraqi-sunni-tribal-leader-assassinated-baghdad-164829669.html>

3 Root Causes of human rights violations

(1) Systematic attacks against Sunnis for decade

Attacks against Sunnis have been practiced systematically since the Iraqi Transitional Government in 2005.

Since Iraq's Anti-Terrorism Law took effect in 2005, many Sunnis, including women, have been maliciously arrested, tortured, and executed when they or their families were identified as terrorists under the law, Article 4 of which provides the death penalty to those who commit or assist others to commit terrorist acts.¹³

Discriminatory abuses of the law's overbroad-reach and executions of Sunni detainees by Iraqi militants under the law's aegis have been documented and criticized by the media and human rights organizations.¹⁴ The former chief of UNAMI's Office of Human rights found the Ministry of Interior responsible for the creation and activities of "death squads" in security forces, which he described as setting up "roadblocks in Baghdad and other areas" to "kidnap ... people" and being "linked with numerous mass executions, at least mass arrests of people who later turned up showing signs of some execution."¹⁵ UNAMI reports that mass detentions, torture and killings of Sunni civilians were most extensive from 2006 to 2008, the responsibility for which falls squarely on government bodies such as the Ministry of Interior.¹⁶

HRN has written numerous statements and reports on discriminatory attacks against Sunni Muslims from 2003 to 2013, highlighting the structural violence prevalent in the Shia-led government.¹⁷

- (2) The United States also continues to provide impunity to persons responsible for grave war crimes in Iraq, such as the torture, rape, killing, and physical and sexual abuse of prisoners at Abu Ghraib.¹⁸ U.S. attacks on Fallujah in April and November 2004 also reportedly included alleged war crimes, such as direct attacks on civilians, use of white phosphorous weapons on civilians, and denied or delayed medical assistance to Fallujah residents.¹⁹

Coalition forces also reportedly employed inhumane, indiscriminate or toxic weapons in civilian urban areas without any protective measures to minimize harm to civilians.²⁰

- (3) To date, grave human rights violations have not been properly investigated; responsible parties are not prosecuted or punished; and victims are denied reparations.

Although Iraq's government is deeply involved in serious human rights violations, there has not been any attempt for institutional reform to prevent further violations.

Lack of rule of law and prevailing impunity contribute to a chain of retaliations, discriminatory crimes and attacks against Sunni Muslims.

¹³<https://www.facebook.com/video.php?v=1078751875484505&set=vb.1052276431465383&type=2&theater>

¹⁴<http://www.aljazeera.com/news/middleeast/2013/02/20132193645300257.html>,

<http://www.bbc.com/news/world-middle-east-20914273>

¹⁵ Human Rights Watch: <http://www.hrw.org/sites/default/files/reports/iraq0214webwcover.pdf>,

Amnesty International: <http://www.amnesty.org/en/news/iraq-testimonies-point-dozens-revenge-killings-sunni-detainees-2014-06-27>

¹⁶ <https://www.globalpolicy.org/component/content/article/168/37475.html>

¹⁷ http://www.uniraq.org/index.php?option=com_k2&view=item&id=1506-report-on-human-rights-in-iraq-november-december-2005&Itemid=650&lang=en

¹⁸ <http://hrm.or.jp/eng/news/tag/Iraq/>

¹⁹ Rucke, Katie. "Rights Group Asks Court To Reopen Abu Ghraib Torture Case." *MintPress News*. 20 Mar. 2014. Web. 9 Feb. 2015. <<http://www.mintpressnews.com/rights-group-asks-court-to-reopen-abu-ghraib-torture-case/187008/>>.

²⁰ <http://www.mintpressnews.com/rights-group-asks-court-to-reopen-abu-ghraib-torture-case/187008/>

¹⁹ HRN Report, http://hrm.or.jp/eng/activity/Iraq_HRC.pdf

²⁰ <http://www.hrw.org/news/2003/04/01/us-using-cluster-munitions-iraq>

4 Conclusion

Hence, HRN urges

- (1) The Iraqi government to:
 - (a) Immediately take measure to stop extrajudicial killings and unlawful attacks against civilian populations, in particular Sunni people;
 - (b) Protect civilians during conflict and adhere to international human rights and humanitarian law;
 - (c) Release all Sunnis detained under the Anti-Terrorism Law without justification;
 - (d) Conduct transparent investigations into all alleged mass killings, assassinations of unarmed Sunni Muslim and detainees; identify and prosecute all perpetrators as well as those aiding and abetting;
 - (e) Conduct thorough investigations of past human rights violations and ensure justice and accountability; review all human rights policies since 2003 and conduct institutional reform to prevent further violations;
 - (f) Ratify the Rome Statue of the International Criminal Court.
- (2) The U.S. and its allies to:
 - (a) Conduct transparent and thorough investigations into any reported war crimes occurring in the 2003 Iraq War and occupation and ensure accountability;
 - (b) Protect civilians during conflict and adhere to international human rights and humanitarian law.
- (3) The international community to
 - (a) Take all necessary measure to prevent financial or material support of terrorism and the criminal activities of ISIL;
 - (b) Scrutinize human rights violations in Iraq, especially unlawful attack against Sunni populations and refrain from any material and financial support causing further violations of human rights.
- (4) UN Human Rights Council
 - (a) To appoint a UN special rapporteur on Iraq under agenda item 4.



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Human Rights Council

Twenty-eighth session

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Fukushima: Persisting violations of fundamental human rights of affected people by the Japanese Government after the Fukushima nuclear disaster

1. Introduction

Four years have passed since the nuclear accident at the Fukushima Dai-ichi Nuclear Power station on the 11th March 2011.¹ There is still a remaining concern over the health and protection of the people living where the radiation exposure exceeds 1mSv/year, especially for vulnerable people such as children, pregnant women and the elderly.

In May 2013, the UN Special Rapporteur on the Right to Health, Mr. Anand Grover proposed comprehensive recommendations to Japan in his report (herein after Grover recommendations)², and in July 2014, UN Human Rights Committee (herein after HRC)³ also made clear recommendations to Japan⁴ to fulfil its obligation under the ICCPR and ICESCR.

However, the Japanese government has dismissed most of the recommendations, claiming that they are “not scientifically proven.”⁴ The government has not taken holistic measures to protect their citizens’ health due to their dependence on a cost-benefit approach.

2. The Right to Life (ICCPR Article 6) and the Right to Health (ICESCR Article 12)

Japan has taken inadequate measures to protect the victims of the Fukushima nuclear accident. Many people, including children and pregnant women, have to live in contaminated areas based on the government’s boundary of the evacuation zones set on the basis of an exposure level of 20mSv/year, a threshold 20 times higher than the international protection standard.⁵

In December 2014, Minami-Soma city in Fukushima Prefecture was undesignated as a protected region, disregarding citizens’ concerns about returning to their contaminated homes.⁶ As a result, the citizens will see their compensation from TEPCO terminated at the end of March 2015. People who return to the former evacuation zone before March 2015 will receive additional compensation amount to 900,000 yen while their housing support will be terminated.⁷ Thus, people with limited financial means will have no choice but to return to the contaminated area.

These policies totally ignore the Mr. Grover’s recommendation to “*formulate a national plan of evacuation zones and dose limits of radiation by using current scientific evidence, based on human rights rather than a risk-benefit analysis, and reduce the radiation dose to less than 1mSv/year*” as well as the HRC’s recommendation to “*take all the necessary measures to protect the life of the people affected by the nuclear disaster in Fukushima and lift the designation of contaminated locations as evacuation areas only where the radiation level does not place the residents at risk*.”⁸

3. The Right to adequate Housing (ICESCR Art.11) and Rights to Family Rights (ICCPR Art. 23)

The Japanese government has also failed to protect the Right to Family Life and Rights to adequate Housing of the affected population.

260,000 people remain in temporary housings and remain displaced throughout Japan as a result of their evacuation from the contaminated areas within Fukushima.⁹ Many of them still live in provisional housing without

¹ Human Rights Now is an international human rights NGO based in Tokyo, Japan

² Grover, A/HRC/23/41/Add.3, HRC, http://www.ccprcentre.org/doc/2014/07/CCPR_C_JPN_CO_6_17701_E.doc

³ Concluding observations on the sixth periodic report of Japan, CCPR/C/JPN/CO/6

⁴ A/HRC/23/41/Add.5/Rev.1

⁵ Although the government considers exposure below 100mSv/year to be safe, it decided to use a 20mSv/year standard in setting the evacuation zone

⁶ NHK (Dec.21) [http://www3.nhk.or.jp/news/genpatsu-fukushima/20141221/0604_minamisouma.html]

⁷ http://www.reconstruction.go.jp/topics/main-cat8/sub-cat8-1/20131011_betten1_houshin.pdf

⁸ A/HRC/23/41/Add.3., para.78(a), http://www.ccprcentre.org/doc/2014/07/CCPR_C_JPN_CO_6_17701_E.doc

⁹ Announced by the Japanese Reconstruction Agency on January 25 2015, available at

sufficient financial support. Living far from home and family result in overwhelming stress and that even lead to suicide.¹⁰

The government has an obligation to support the evacuees financially and mentally, and provide permanent settlement to all affected people in need immediately.

4. The Rights to Health- Access to Health Monitoring

In June 2012, the government enacted the Nuclear Disaster Victim Protection Law that provides various support for affected people especially for children to maintain their health and livelihood regardless of their status of living.¹¹ However, the government has neither fulfilled these responsibilities nor provided accurate and sufficient health examination services.

For example, thyroid examinations are still only available to those who were under 18 years old at the time of the nuclear accident, and follow-up tests are only performed every other year. People who were over the age of 18 at the time are not entitled to free medical care or any support for their next thyroid examinations.

It has to be noted that 86 cases of thyroid cancer were identified in August 2014, and that the number of people diagnosed with thyroid cancer has been increasing over the years.¹² However, the government's report on thyroid ultrasound examination concludes that it is unlikely that the diagnosed thyroid cancer tumors were caused by radiation.¹³ The government stresses that the increasing findings are due to the "screening effect" and underestimate the health impact of radiation.

Moreover, the government has neither conducted any other health monitoring for people living in the affected area (such as blood or urine sampling, dental exams, ophthalmology, etc.) nor kept any record of illness other than thyroid cancer.

In January 2015, the government reported that there would be no need for undertaking examinations for other types of cancer unless one had been exposed to radiation of 100mSv/year.¹⁴

Contrary to this, it is proven that numerous diseases observed after the Chernobyl accident were provoked by low dose exposure to radiation.¹⁵

Mr. Grover recommendation also urged the Japanese government to monitor *"the impact of radiation on the health of affected persons through holistic and comprehensive screening for a considerable length of time and make appropriate treatment available to those in need"* emphasizing the *"health monitoring should be provided to persons residing in all affected areas with radiation exposure higher than 1mSv/year"*.¹⁶

However, none of these recommendations have been considered thus far.

5. The Right of Access to Information (ICCPR, Article 19)

http://www.reconstruction.go.jp/topics/main-cat2/20150123_sougoutaisaku.pdf

¹⁰ Nihon Keizai (6 September) Available at: http://www.nikkei.com/article/DGXLASDG05045_V00C14A9CR8000/

¹¹ <http://law.e-gov.go.jp/htmldata/H24/H24HO048.html>

¹² <http://www.pref.fukushima.lg.jp/uploaded/attachment/80430.pdf>; MinpouShinbun (25 Aug) Available at: http://www.minpo.jp/pub/topics/jishin2011/2014/08/post_10581.html

¹³ Thyroid Ultrasound Examination (Full-Scale Thyroid Screening Program) Reported on 25th December 2014. Available at http://www.fmu.ac.jp/radiationhealth/results/media/16-2_Thyroid_Ultrasound_Examination_F-S.pdf

¹⁴ cancers such as bladder cancer, laryngeal cancer and lung cancer <http://www.japanfocus.org/-Piers-Williamson/4232>

¹⁵ See Eiichiro Ochiai, (2014) *Hiroshima to Fukushima: Biohazards of Radiation*, Springer, Heidelberg: 164 and Caldicott, H. (ed) *Crisis Without End: The Medical And Ecological Consequences Of The Fukushima Nuclear Catastrophe*, The New Press: New York for details.

¹⁶ A/HRC/23/41/Add.3., para 77(a)

The ongoing lack of information prevents victims from knowing all relevant and reliable information, including the level of contamination in residential areas, the current status of the Fukushima nuclear plant, and the level of daily emissions of contaminated substances from the plant.

In its latest concluding observation, the HRC recommended Japan to *"monitor the levels of radiation and disclose this information to the people affected in a timely manner."*

6. Limited Public Participation

The government has been promoting the repatriation of victims to their hometowns in contaminated areas, even though people would demand a 1mSv/year radiation basis on the relevant policies.¹⁷

In spite of Mr. Grover's recommendation to *"ensure effective community participation, especially participation of vulnerable groups, in all aspects of the decision-making processes"*, people are often left outside of the decision-making and excluded from necessary information.

There are many surveys on radiation, health monitoring and meetings held by the local officials but there is still no effective mechanism to ensure involvement of the affected community in the national decision-making process.

7. Recommendations

HRN urges the Japanese government to reform all relevant policies based on Mr. Grover's recommendations and the latest HRC recommendations;

All policies must be formulated with a victims-based and rights-based approach;

- 1) The government must prioritize protection of the most vulnerable populations, with due consideration of the health risks of low level radiation exposure to 1mSv/year in national plans concerning evacuation zones, health policy, and in all measures providing for those affected;
- 2) Appropriate measures include long-term monitoring of the health conditions of affected people, free periodical medical checks, free examinations of internal radioactive exposure levels, as well as free healthcare and medical treatment (including urine and blood testing) for radiation-related illness;
- 3) Take all necessary measures to protect the right to family of the affected population, with sufficient financial and physical support and with due consideration of the current situation of separated families;
- 4) Enable full community participation in the next decision-making concerning future nuclear and health policies;
- 5) Take concrete and immediate action in conformity with the Victim Protection Law with effective participation of the affected people.

¹⁷ Yomiuri Shinbun (Aug.5.2014) Available at: <http://www.yomidr.yomiuri.co.jp/page.jsp?id=102944>



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Human Rights Council

Twenty-eighth session

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Jubilee Campaign, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-03760 (E)



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Human Rights and freedom of religion in Egypt*

Jubilee Campaign, together with Christian Solidarity Worldwide (CSW),¹ seeks to draw the Council's attention to the situation of freedom of religion or belief (FoRB) in the Arab Republic of Egypt.

Introduction

The domestic legislative framework governing the right to FoRB is established in the Egyptian constitution, as it was accepted by referendum in January 2014 and enshrined in basic form in article 64: "*Freedom of belief is absolute. The freedom of practicing religious rituals and establishing places of worship for the followers of revealed religions is a right organised by law.*" The Arab Republic of Egypt also belongs to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the International Convention on the Rights of the Child (CRC) and the Convention on the Elimination of Discrimination against Women (CEDAW).

Current enjoyment of FoRB in the Arab Republic of Egypt is tenuous, with conditions varying in different regions. Since the election of Abdel-Fattah el-Sisi as President in 2014, the government has increased efforts to combat terrorist threats. While the Arab Republic of Egypt has experienced a significant rise in terrorist-related violence, particularly in the Sinai Peninsula, security concerns have increasingly served to justify restrictions on civil society. These restrictions specifically violate the rights to freedom of expression, association, and religion or belief. FoRB has been curtailed by individual arrests and convictions for "blasphemy, insulting Islam, contempt of religion, and related charges. Notable efforts target atheists in both physical spaces such as group meetings and digital spaces like social media.

Security measures and FoRB

With regards to the security situation since the ousting of former President Mohammad Morsi in July 2013, threats and acts of terrorism have increased across the country. This has been most concentrated in the Sinai Peninsula, where the jihadist group Anṣār Bayt al-Maqdis operates. The group recently pledged allegiance to the Islamic State in Iraq and Syria (ISIS). Terrorist incidents have also increased in Cairo, with regular bomb explosions targeting government, judicial, and security buildings.

This has led to heightened tensions and a general acceptance of a constant battle against terrorism. However, this situation has impaired citizens' right to freedom of expression and association.

In an effort to separate religion from radicalisation and political discourse, the new Law of Oration and Unified Friday sermon imposed by the Ministry of Religious Endowments (Awqaf) closed hundreds of small mosques and limited religious oration to Al-Azhar graduates who hold a permit from the Ministry of Religious Endowments. While state efforts to tackle radicalisation and politicisation in extremist preaching are welcomed and absolutely necessary, the unification of sermons undermines both freedom of expression and the freedom of religion or belief. It may also create a counter-culture of extremist doctrine, driving it underground making it more difficult to police. We would encourage the Egyptian Government and its religious institutions to implement a policy that effectively stamps out radicalisation and Islamism through extremist preaching while ensuring freedom of expression and freedom of religion or belief.

¹ Christian Solidarity Worldwide, an NGO without consultative status, also shares the views expressed in this statement.

In November 2014, with the absence of a Parliament, the Cabinet approved a draft anti-terror law giving blanket powers to ban groups on charges ranging from harming national unity to disrupting public order. State forces have made use of this legislation to target secular groups as well as Islamist opposition.

Restrictions of FoRB - Atheists

Legislation has formed part of broader pressure on secular groups and those with no religious belief. Writer Karam Saber has been sentenced to five years in prison for "contempt of religion" because his book, *Where is God?*, was judged to promote atheism. Cairo student Karim Ashraf Mohamed al-Banna was sentenced to three years in prison for insulting Islam by announcing on Facebook that he was an atheist. His arrest was part of an operation to close and demolish an "atheist café" in Abdeen, Cairo. The regional police chief remarked afterwards, "We have destroyed the café of the devil worshippers in Falaki Street for being illegal and for having a number of atheists spreading their thoughts".²

Dar al-Ifta, the Sunni foundation authorized to issue religious decisions, published that regional polling found exactly 866 atheists in the Arab Republic of Egypt. This questionably precise number suggests that atheists account for just 0.001% of the Egyptian population, which is estimated at 80 million³. This announcement was issued during the launch of a national campaign warning of the "dangers of Atheism" by the Ministry of Religious Endowments and by the Ministry of Sports and Youth. Nuamat Sati from the Ministry of Youth outlined the dual aims of the campaign: to "spread awareness concerning the dangers of atheism and how it creates a threat to society, and to treat this phenomenon by having a dialogue with atheists and giving them a chance to reconsider their decisions and go back to their religion".

Restrictions of FoRB – Contempt of religion cases

There are also numerous cases of sentences for contempt of religion or blasphemy. Although these are usually issued by courts outside of Cairo, there is a worrying trend of fines and prison sentences being handed to those judged guilty of religious defamation. In June 2014, Christian schoolteacher Demiana Emad Abdel Nour was fined EGP 100,000 and was sentenced to six months in jail without possibility of appeal for contempt of religion after presenting a comparison between religions during the ancient, middle and modern ages. Also in June 2014, Kerosos Shouky Attallah, a 29-year old Coptic Christian from Luxor, was sentenced to six years of imprisonment for blasphemy and contempt of religion when he "liked" a Facebook page by Christian converts from Islam. In November 2014, a 50-year old Sunni Muslim writer named Fatima Naoot posted a tweet criticising the annual ritual of sacrificing animals during the Eid Al Adha festival. She faces three years in prison for contempt of Islam, spreading sectarian strife, and disturbing public peace.

According to article 98 of the Egyptian Penal Code, "exploiting religion in spreading, either by words, in writing, or in any other means, extreme ideas for the purposes of inciting strife, ridiculing or insulting [the Abrahamic faiths] or a sect following it, or damaging national unity" is punishable with prison sentences between six months and five years and fines of 500-1,000 EGP. This article contradicts stipulations of Article 2 of the constitution. Moreover, according to General Comment 22 of the Human Rights Committee, "the fact that a religion is recognized as a state religion... shall not result in any impairment of the enjoyment of any of the rights under the [ICCPR]... nor in any discrimination against adherents to other religions or non-believers." We therefore recommend that the Arab Republic of Egypt amend article 98 of the Penal Code to ensure those of all or no beliefs enjoy the freedoms outlined in Article 2 of the constitution and continued in General Comment 22.

Conclusion and Recommendations

² Cairo Post, *Cafe destroyed in Abdeen to counter its 'Atheist' patrons*, December 2014

³ UN Data 2012 - <https://data.un.org/Search.aspx?q=egypt>

The Egyptian Government has made progress in protecting religious minorities, especially concerning physical attacks by Islamist groups. President Sisi has also encouraged national unity through a number of speeches, most recently when he became the first Egyptian President to attend and address a Coptic Christmas mass, saying, "Let no one say 'What kind of Egyptian are you'. It is not right to call each other anything but Egyptians."

Jubilee Campaign and CSW welcome the Coptic Orthodox Church and Al-Azhar University's "Home of the Egyptian family" initiative and its valuable work to combat incitement to religious-based violence and discrimination, spreading a culture of tolerance. This also includes the "Home of the Egyptian Family" work to restore 46 churches that were damaged after the 30 June 2013 revolution.

However, in order to ensure that the Arab Republic of Egypt consistently upholds the rights of all its citizens under the constitution, we call on the authorities to:

- 1) Amend article 98 of the Penal Code to ensure those of all or no beliefs enjoy the freedoms outlined in Article 2 of the constitution and General Comment 22;
- 2) Along with relevant religious institutions, formulate and implement a policy that effectively stamps out radicalisation through extremist preaching while also ensuring freedom of expression and freedom of religion or belief;
- 3) Review all cases where prisoners are facing charges relating to blasphemy or "insulting religion", including a review of court practices and judges where these charges have been brought;
- 4) Proactively combat the culture of impunity by ensuring all crimes against any religious group, especially against religious minorities, are not tolerated and are thoroughly investigated;
- 5) Cease any state-sponsored initiative to promote any religion or belief system over another, including the programme addressing the dangers of atheism.

* Christian Solidarity Worldwide, an NGO without consultative status, also shares the views expressed in this statement



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Human rights situations that require the Council's attention

Written statement* submitted by the Jubilee Campaign, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Human Rights and freedom of religion in the Islamic Republic of Iran

Jubilee Campaign, together with Christian Solidarity Worldwide (CSW), wishes to draw the Council's attention to the situation of freedom of religion or belief in the Islamic Republic of Iran.

Article 23 of the Iranian Constitution states: *The investigation of individuals' beliefs is forbidden, and no one may be molested or taken to task simply for holding a certain belief.* Furthermore, the Islamic Republic of Iran is a signatory to various international treaties including the International Covenant on Civil and Political Rights (ICCPR) which stipulate the right to freedom of religion or belief. However, despite these realities, religious minorities in the Islamic Republic of Iran are systematically harassed.

Jubilee Campaign and CSW are deeply concerned with the continuing repression of religious and ethnic minorities, particularly converts to Christianity. Religious and ethnic minorities are viewed with suspicion and treated as a threat to the integrity of a theocratic system that promotes a strict interpretation of Shia Islam. Consequently, Christians, Baha'is, Dervishes and Sunni Muslims continue to face harassment, imprisonment, torture and even death. Although the death sentence for apostasy (in this instance, leaving Islam) is not codified in law, the authorities exploit a legal loophole to pass the death sentence; this occurred in the case of Yousef Nadarkhani, who was sentenced to death in 2010 on the basis of an open-ended article in the constitution allowing judges to deliver verdicts underpinned by "authoritative Islamic sources and authentic *fatwas*". In this instance judges based their ruling on restrictive *fatwas*, ignoring more progressive ones that allow for conversion. Pastor Nadarkhani was eventually released in 2012. However, converts from Shia Islam to another religion remain vulnerable to the death penalty.

Christians continue to be arrested in their homes or while engaging in social activities. They face political charges relating to national security, including espionage and "crimes against the order", in order to justify lengthy jail terms. In reality, most are being imprisoned for adopting a religion of their choice. Some are released after paying exorbitant bail payments. Government-sanctioned churches have also faced severe restrictions. For instance, the last Farsi-speaking church in Tehran was forced to close in 2013 as a result of sustained pressure and harassment.

In October 2013, four Christians from a house church were sentenced to 80 lashes for taking communion, and the sentence was carried out on at least two of the four men soon thereafter. In 2014, Sacred Peter Church in Tehran was forced to announce that Farsi-speaking Christians could no longer attend. In January 2014, the Revolutionary Court in Karaj sentenced a convert Hossein Saketi to one year's imprisonment for "Christian evangelism". Also in early 2014, converts were arrested during a picnic near Shush-e-Daniel. In the same year, three converts were charged with the capital offences of *Mofzed-e-filarz* (spreading corruption on earth) and *Moharebeh* (enmity against God). Although the charges were eventually dropped, members of religious and ethnic minorities, political opposition, and journalists continue to be harassed with such charges. For example, the poet Hashem Shaabani and Hadi Rashedi, an activist, both Ahwazis, were hanged in January 2014 for alleged "enmity against God" and "spreading corruption on earth" after merely speaking out about the plight of Iran's Ahwazi-Arab ethnic minority.

While several Christian prisoners have recently been released, including Pastor Matthias Haghnejad, Deacon Silas Rabbani, Hossein Baraunzadeh (Daniel), Rahman Bahman (Zia), Amin Khaki, and Vahid Hakanni, many have been released conditionally. For example, Mr. Hakkani was released on January 26, 2015, on the condition that he will not attend house church or any other Christian activity. Other Christians remain unjustly imprisoned. Farshid Fathi Malayeri, an Assemblies of God (AoG) pastor currently serving a six-year sentence for "action against national security", "cooperating with foreign organisations", and "evangelism", received an additional one-year sentence following a trial on December 29, 2014, at Branch 15 of the Revolutionary Court of Tehran. The additional sentence was allegedly related to a controversial raid by security agents on Ward 350 of Evin Prison. The raid took place on April 17, 2014, leaving 30 prisoners requiring medical treatment. The prison authorities claimed that the raid was

initiated following the discovery of alcohol in a ward adjacent to the one where Pastor Fathi Malayeri was held. The authorities inexplicably held him responsible.¹ Following the raid, he and Saeed Abedini were transferred to Rajai Shahr Prison in Karaj, which accommodates some of the most dangerous prisoners in the Islamic Republic of Iran. Alireza Seyyidan remains incarcerated in Evin Prison, and his health is reported to have deteriorated significantly.

Christians experience regular harassment and intimidation from intelligence services. Since 2010, the intimidation has escalated just before Christmas each year in a campaign described as a "Christmas present". According to credible sources, on December 25, 2014, security officials raided a house in Roudehen, arresting nine Christians. The following day, around 15 people were detained following a raid on Christmas celebrations at the Tehran home of Victor Bet-Tamarz, a prominent Assyrian pastor of Shahr-Ara Pentecostal Church. Most were released with a warning, but may be summoned for further investigation. Pastor Bet-Tamarz was detained at Evin Prison.

Members of the Baha'i faith – Iran's largest religious minority – have also been actively targeted. They are denied legal status. Since 1979, over 200 Baha'i leaders have been killed or executed, with thousands more imprisoned. In 2013, the first religiously-motivated murder of a Baha'i in 15 years occurred after a speech by Supreme Leader Ayatollah Khamenei a week earlier that had denigrated the community. In February 2014, three members of a well-known Baha'i family sustained knife injuries when they were attacked in their Tehran home. Members of the Baha'i faith are also denied access to further education and employment in public services. Discrimination of religious minorities in public services accompanies restricted access to high-ranking government positions.

Since 1980, the government of the Islamic Republic of Iran has campaigned actively against the Gonabadi Dervish community. Dervishes experience harassment, torture, denial of education, and imprisonment. When arrested, many Dervishes have had their moustaches – a key part of their identity – shaved off to humiliate them. In March 2014, 2000 Dervishes, including women and children, were beaten and detained for a day following a protest outside the Judiciary over Dervishes imprisoned for participating in a hunger strike.

Repression of religious minorities has continued under President Rouhani, who had been widely lauded as a moderating and progressive influence following years of confrontational, combative policies under President Ahmadinejad. However, President Rouhani has failed to uphold pre-electoral promises to ensure equal rights for religious minorities, and systematic targeting of minorities continues unabated.

Jubilee Campaign and CSW also express concern over Iran's refusal to allow the UN Special Rapporteur on the Situation of Human Rights in Iran, Dr. Ahmed Shaheed, to visit the country. In October 2014, the report by the Special Rapporteur found that at least 300 people were detained in the country because of their religion or belief. Among them were 120 Baha'is and 49 Christians.

Jubilee Campaign and CSW call on the Islamic Republic of Iran to respect its obligations under the ICCPR, to end the judicial harassment of minority religious and ethnic communities, journalists and political opponents, and to immediately release all prisoners of conscience, including those detained or imprisoned on account of their religious convictions.

Recommendations:

Jubilee Campaign and CSW request that key members and institutions of the international community do the following during dialogues with the Islamic Republic of Iran:

¹ <http://dynamic.csw.org.uk/article.asp?t=press&id=1820>

- Call for the immediate and unconditional release of pastors Behnam Irani, Farshi Fathi Malayeri, Saeed Abedini, and other Christians imprisoned for their religious convictions;
- Call for the immediate and unconditional release of the seven Baha'i leaders and all others held solely on the basis of their religious convictions;
- Remind the Islamic Republic of Iran of its obligations under constitutional and international provisions to uphold the rights of ethnic and religious minorities, and to end judicial intimidation and punishment of individuals exercising their right to adopt a religion or belief under Article 18 of the ICCPR;
- Call for the urgent review of cases where prisoners of conscience are detained following summary procedures lacking due process;
- Call for an end to the harassment of members of civil society, and the immediate and unconditional release of human rights defenders who are imprisoned unjustly;
- Urge an end to the use of revolutionary courts in cases involving prisoners of conscience, and address the constitutionality of these courts;
- Urge the Islamic Republic of Iran to issue invitations to the UN Special Rapporteurs on Freedom of Religion and Belief, Extrajudicial, Summary or Arbitrary Executions and the Independence of Judges and Lawyers, and to take action according to their recommendations;
- Support the UN Special Rapporteur on the Situation of Human Rights in Iran, Dr. Ahmed Shaheed, in monitoring Iran's compliance with international human rights standards, including freedom of religion or belief.

*Christian Solidarity Worldwide, an NGO without consultative status, also shares the views expressed in this statement



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Promotion and protection of all human rights, civil,
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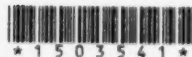
Written statement^{*} submitted by the Institut international pour la paix, la justice et les droits de l'Homme- IIPJDH, a non-governmental organization in special consultative status

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Demand of the European Public Television as a Guarantor of Democracy

Public television in the European Union is suffering one of the worst crisis since World War II and this situation can have terrible consequences in what has for the most part been a largely democratic system.

The Global Network for Rights and Development (GNRD) denounces the increasing weakening of the freedom of speech in this area where rights were not violated this way before.

For the first time in the history of European democracies two broadcasting companies have been closed by the governments: in Greece and in the Valencian Community, in Spain. In the first case, the government closed the company without parliamentary consultation and in the second case, the government of the Valencian Community changed one of the fundamental laws of the constitution. In both cases, claims and demands of the politic opposition and of the population have been ignored. After the electoral Syriza's victory in Greece, the reopening of the public channel has been announced, but it has still not been carried out.

Both governments have tried to justify their unilateral decisions by arguing that the economic crisis has affected their national territories and they cannot afford to maintain all the public employees. The truth is that Greece has created a new channel financed with public funds and just a few journalists have been selected to work there, after firing thousands of professionals that had acquired their jobs by a state examination. This examination was supposed to be a guarantee to secure employment based on equal opportunities. The Valencian government has announced the same action; trying to get another television channel also financed by budgets from governmental institutions coordinated by the political party in power.

This situation means that eleven million Greeks and five million Valencians are the only EU populations that do not have recognized public television services in their own languages. This fact is a clear violation of the right to freedom of speech that is reflected in the Universal Declaration of Human Rights.

Both Greece and the Valencian Community have the same right as the rest of the European Union: to have a public broadcasting service and to protect against abuse of power.

The preservation of an independent public television is key to form a pluralistic media landscape in all societies, and for that goal the governments must provide enough resources and protective laws against political influence. It is very important to be aware that the public broadcasting policies define the level of democracy in our societies.

The closures of the EPT in Greece and RTVV in Valencia is not only a problem for the thousands of media workers who have become unemployed, but it is also a threat to the media pluralism in these countries.

This situation is happening at a moment where communication and dissemination of information through social media is expanding. This is creating closed social and cultural communities that create systems of exclusion: inside Facebook, for example, people only socialize with similar minded people. On the contrary, the public media service creates discourse for unifying societies, spreading the values of equality and justice.

Private media's aim is profits, no matter if they are economic or ideological. As they belong to individual owners, their interests are also individual, and even if it is possible to demand some type of compliance with certain laws, these are not always effective techniques to impose. As they have a business mentality, their perspective is focused on benefits. This, logically, ignores the crucial role that collective media plays in our society, which is

creating a common narrative, spreading values and ideas that contribute to social stability. For example, the concepts of social equality and justice, under the wing of current societies, which are very competitive, are not included in the DNA of all human beings. Economic, social and cultural events increase the creation of unacceptable behaviour, such as male chauvinism, racism, xenophobia or homophobia, among certain fields. The spread and promotion of an equal and fair society is not a training action that provides real financial benefits, but it is undoubtedly essential for the achievement of social justice; where the fight against inequality, the respect for the stranger, the love for all living beings, and the respect for nature, as the grassroots of the inalienable defense of human rights, are powerful. All this, which allows the sustainability of a democratic society, means that the private media cannot take a huge amount of values and ideologies automatically, therefore, now more than ever, in the background of a digital plurality of content dissemination, the defense of the public communication media is imperative. Those are the ones which have the ability to construct and cement social stability; to gather us all together for the compliance of certain common laws in order to live in peace and harmony. All the elements that are not measurable, or quantifiable are the ones that constitute the invisible but indispensable benefits for a 21st century society. It is important to remember all this, because the economic crisis, which is tearing apart some European Union countries, has managed to create a political and social atmosphere in which some sectors plead for the disappearance of the public media system by defending the idea that the investment in this field is a waste of money.

Elsewhere in Europe, the crisis and the following cuts in journalistic companies, both public and private, is promoting, among some journalists, self-censorship behaviour. In almost all countries, certain journalists are witnessing a deterioration in their labour rights and working conditions. In this way, the quality of European journalism is suffering the consequences, and this is resulting in a loss of confidence by the audience. If there is some political and social intention to save European democracies, an action must be taken to recover public mass media with healthy control institutions, in which selection criteria of posts are justified, not only by the responsibility criteria, but also authority and organization of the civil society criteria.

All the important professional institutions of journalists are compromised to safeguard public broadcasters.

The European Convention on Human Rights is very clear about the defence of the freedom of expression. Everyone has the right, which shall include freedom to hold opinions and to receive impartial information and ideas without interference by public authority and regardless of frontiers. This article is directly linked to political freedom and a solid public broadcasting system. There are values in our societies that must be preserved in order to keep the justice and order.

In Europe, public broadcasting systems have been essential in political projects in order to achieve social cohesion and cultural transmission. Public television broadcasters were a symbol in so many countries and they play a crucial role in the political process, like Spain's Transition. But in a paradoxical way, most of the public channels have suffered cuts since 2010. Besides the two censorships mentioned before, there are several European professionals in public television, which live their lives on announced plans by some governments, which try to reduce the number of employees. In countries such as Portugal, Spain and France, there are very strict financial constraints to elaborate plans in this field, and there are even plans of privatisation.

Without public media, there is no democracy. Let us regain our voices and reclaim the common voice. Greeks and Valencians seek to have their rights restored.